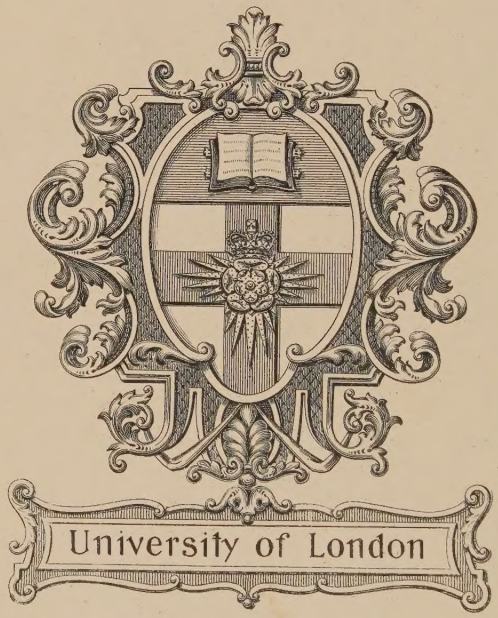
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REPORTS

FROM

COMMISSIONERS:

SEVENTEEN VOLUMES.

—(5.)—

EDUCATION (SCOTLAND).

HYPOTHEC (SCOTLAND).

Session

7 *February* — 6 *July* 1865.

VOL. XVII.

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1865.

SEVENTEEN VOLUMES:—CONTENTS OF THE

FIFTH VOLUME.

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Education Commission (Scotland).

FIRST REPORT

BY

HER MAJESTY'S COMMISSIONERS.

Education Commission (Scotland).

FIRST REPORT

BY

HER MAJESTY'S COMMISSIONERS

APPOINTED TO INQUIRE INTO THE

SCHOOLS IN SCOTLAND.

WITH AN APPENDIX.

Presented to both Houses of Parliament by Command of Her Majesty

EDINBURGH:
PRINTED FOR HER MAJESTY'S STATIONERY OFFICE,
BY THOMAS CONSTABLE.

1865.

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REPORT ON THE SCHOOLS IN SCOTLAND.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

MAY IT PLEASE YOUR MAJESTY,

We, the Commissioners appointed to inquire into the Schools in Scotland, humbly lay before your Majesty the following Report of the Oral Evidence which has been taken before us up to this date, and we humbly submit the same to your Majesty's most gracious consideration.

Witness our hands and seals, this eighteenth day of March 1865.

ARGYLL.
BELHAVEN & HAMILTON.
POLWARTH.
CHARLES BAILLIE.
JAMES FERGUSSON.
J. MONCREIFF.
JAS. CRAUFURD.
ARCHD. DAVIDSON.
DAVID MURE.
A. MURRAY DUNLOP.
A. BLACK.
ALEXR. S. COOK.
JAMES MITCHELL.
JOHN RAMSAY.
DAVID SMITH.

PATRICK CUMIN, *Secretary.*

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EDUCATION COMMISSION.

MINUTES OF EVIDENCE.

Monday, 14*th November* 1864.

THE DUKE OF ARGYLL IN THE CHAIR.

JOHN GORDON, Esq.,—*examined.*

John Gordon.

The Chairman.—Would you state to the Commission what offices you have held, and what office you now hold, in order to show what opportunities you have had of becoming acquainted with the state and system of Education in Scotland?—I acted as Secretary to the Education Scheme of the Church of Scotland from its commencement in 1825 till 1844; and I have held the office of Inspector of Schools in Scotland under the Privy Council for sixteen years.

Describe generally the rise and formation of the School system in Scotland.—A statement on this subject is given in my Report published with the Minutes of Council, 1844, which I now lay upon the table. It describes the several modes in which schools, both for elementary and for advanced instruction, have been provided, constituted, governed, and maintained—such schools being the Parochial; Subscription, whether supported by individuals, or by Churches or societies; Burgh Schools; schools on private endowment and on adventure.

Will you state generally the object and operation of the Church of Scotland's Education Scheme?—The object of the Church of Scotland's scheme has been to supply schools for elementary instruction in those parts of Scotland in which, from local causes, schools have been wanting; that is, mainly in the Highlands. This they have accomplished by means of voluntary contributions, arising chiefly from Church-collections, which take place annually throughout the Church, on the recommendation of the General Assembly. The funds thus produced are administered by a central committee at Edinburgh, in support, by annual grants, of the schools which they have promoted or established. Their support is conditional on the supply of school accommodations by local parties. They appoint or remove the teachers when they see cause; and they receive from the ministers of the parishes half-yearly reports on the state of the schools.

The Free Church has a similar education scheme of great extent throughout the country, Lowlands as well as Highlands. Of the like description is the Institution of the Society for Propagating Christian Knowledge, which has existed for the last 150 years, for the benefit mainly of the Highlands and Islands. And there is the Society in support of Gaelic Schools.

Can you state the number of schools supported by these Churches or Societies, and the yearly expenditure upon them?—These particulars for each scheme will probably be had from others; but the last year's reports give as the total number of such schools, ... 1,103

And the yearly expenditure upon them, by the Churches or Societies, as £20,256

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To these, however, have to be added the schools supported by other denominations: United Presbyterian, Reformed Presbyterian, Episcopal, Roman Catholic, and two Ladies' Associations. There are various bodies which do not institute or support schools, but aid them from bequests. These are the Dick, Milne, Bell, and Ferguson bequests. Certain reasons seem to determine private bequests as much towards the aid of schools as towards their origination. The existence of a well-attended school in any place gives assurance that a school is there needed; and an unaided school, unless in very favourable circumstances, is almost presumed to require aid, if only because all the parish schools have been aided; and so it is that private bequests so often take the same direction as the administration of the Parliamentary grants: they are given in aid.

What bequests for Education have come into operation in your district, say within the last ten years?—There have been the Ferguson bequest; Alexander and Buchanan's, both in Glasgow; Ewart's in Newton-Stewart; Forrest's in Airdrie,—all originating within the last ten years; and there have probably been others less considerable.

What may be the total amount of those you have named?—The particulars are these:—

Ferguson bequest (estimating by last year's expenditure in annual grants),	£70,000
Alexander's,	50,000
Buchanan's (revocable if the trustees see cause),	75,000
Ewart's,	17,000
Forrest's,	6,000
Total,	£218,000

All these permanent accessions from private benevolence to the means of education apply to the six counties in the south-west of Scotland, and they have occurred within the last ten years.

In their proceedings for increasing the means of education, has the Church of Scotland's Committee followed any general principles which you would deem noticeable on this occasion?—Two instances may be mentioned in which they aimed expressly at an extension of the parish school system; and one in which they gave a certain adjunct to that system, of a kind unknown to it before, but suited to the needs of the present time:—1*st*, In 1839, they set on foot a plan for promoting in each of the *quoad sacra* parishes the establishment of "at least one school constituted in the same manner as the parochial schools of the civil parishes." The schools set on foot and supported by Church congregations, and called sessional, are the kind of school here referred to. They are now numerous, especially in the towns: upwards of 100. 2*d*, In 1836, they represented to the Government "that the districts connected with the forty-two Government Churches in the Highlands were unprovided with parish schools." The result of this was the Act 1 and 2 Vict., c. 87, for the endowment of a school in each of these *quoad sacra* divisions. The amount was to depend upon the actual cost of the accommodations to be provided by the heritors; and the endowment to be secured in this manner: the Commissioners of the Treasury were authorized to appropriate from the Parliamentary grants for education in Scotland, such part as they might find necessary for this purpose; the sums so appropriated to be invested in Government stock, in the name of persons to be appointed by the Commissioners, and the dividends to be paid to such persons in Scotland as the Commissioners might nominate. 3*d*, The Normal Schools, set on foot in Edinburgh and Glasgow by the Church Committee in 1841, with liberal aid from the Government, though new to the parochial system, are suited to it so well, that a great part of the teachers who have been of late appointed to parish schools have been therein trained.

You have stated that the Church of Scotland's Committee have established their schools in places destitute of the means of education: will you explain how they have chosen such places?—The destitute places were assumed at the outset to be the Highlands and the large towns; but in these places there were different degrees of the destitution, and the most destitute were not the first to receive aid. The reasons were—(1.) that in giving to any of the places fairly ascertained to be destitute, the object of the grant was so far served; and (2.)

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that, as announced, they could not establish or support a school anywhere unless the local parties provided the school accommodation. But it was not always the most destitute that were the readiest or most able to comply with this necessary condition; and thus it happened, that those who came first, and with good claims, were the first to be assisted. Here, by the way, the procedure of the Church Committee coincides with that of the Privy Council Committee; in both cases the procedure is determined by the fitness of a general rule, with which it may be more easy for one place to comply than for another.

Do you know whether other Educational Boards have acted on the same principle?—I am not aware, but probably they have, and for much the same reasons.

Do you mean that their selection of places has been guided by the ability of local parties to contribute?—I think very likely, in a great degree.

Would you describe the general School system of Scotland?—The schools may be divided into the endowed and unendowed:—

I. Endowed: The Parish schools.—The Parish Schoolmasters' Association have lately printed a "List of Salaries fixed under Act 1861." One of their number makes the following summary—

1.	Number of parish schools (including side schools, otherwise called branch parish schools, 171 in number),			1026
2.	Number of retired teachers,			63
3.	Number of female teachers appointed, and salaried under Act 1861,			82
4.	Amount of salary expended on all the parish schools,	£48,390	9	11½
5.	Average for each parish,	56	11	11¼

Is that since the recent Statute?—Yes.

Is it independent of fees?—Entirely.

Can you state the maximum that has been given to a parochial schoolmaster since the recent Act?—A good many of them have received the maximum, £70.

6.	Amount expended on all the schools, exclusively of retired allowances and female teachers' salaries,	£45,143	18	1
7.	Average salary of each acting male teacher,	44	0	0
8.	Total amount paid to retired teachers,	2,118	1	10½
9.	Average amount paid to each retired teacher,	33	12	5
10.	Total amount paid to female teachers,	1,128	10	0
11.	Average amount paid to each female teacher,	13	15	3

How would you divide the unendowed schools?—The endowments from private sources may be stated as follows: the census of 1851 gives the yearly amount at £31,160, but very considerable additions have since accrued, as already noticed; again, a report of the General Assembly's Committee in 1854 gives the yearly amount of such endowments at £31,476. But the coincidence of the two reports in this respect is less than might be supposed, the one reckoning as endowed schools some not so reckoned by the other, from the fact of their being partially aided also by subscription. It is proper to observe that the schools reckoned as endowed in the Assembly's Report, and 744 in number, include among others—(1.) The 232 schools belonging to the Society for Propagating Christian Knowledge; (2.) The few which are maintained upon the mortified funds administered by the General Assembly's Education Committee; (3.) The 146 parochial schools in the three counties of Aberdeen, Banff, and Moray, which have the benefit of the Dick, and partly of the Milne Bequest; (4.) Eighty parish schools, aided by private endowments, chiefly in other parts of Scotland; (5.) Those schools, six in number, the endowment of which consists merely in the school-house and the teacher's dwelling, provided from funds specially mortified to the school, and generally of a superior description.

On the other hand, certain classes of schools, resembling the class in question, are not included in the above enumeration. These are—(1.) The schools held within the walls of charitable institutions for the benefit of the inmates, such as Heriot's Hospital, Donaldson's Hospital, J. Watson's Hospital,—the revenues of which are mainly applicable to other purposes than that of education in the ordinary sense of the term; (2.) Schools which have been upheld by contribution, or subscription of the proprietor on whose estate the school is situate; this contribution is of stated amount, has been steadily continued perhaps for many years, and is considered permanent; nevertheless it is revocable at the pleasure of the

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donor; (3.) Schools which have permanently attached to them a school-house and a dwelling-house for the master, but nothing more of the nature of a fixed provision; these accommodations have been provided generally by means of subscription, not by means of any special bequest.

What may be the total number of schools in Scotland?—This can only be conjectured. The census of 1851 gives the total number at 5242; but there can be no doubt that, from the growing interest in education, it has since been considerably augmented.

Does that number profess to include the adventure schools?—It does.

What is the description of schools usually called Denominational?—The term signifies little more, I think, than that the "denomination originates, keeps up, and manages the school;" the school so named, indeed every school in Scotland connected with any Presbyterian communion, and perhaps with others, is open to the children of any other communion, and usually frequented by such; for there is nothing peculiar in the instruction, secular or religious, at any such school, and no attempt to enforce the teaching of any part of it. The total number of schools connected with the Established, the Free Church, and other denominations, and so falling to be considered as denominational, probably does not exceed 1300 or 1400. The parish schools are not included.

Was there not a direction of the General Assembly last century, that Roman Catholic children should have the benefit of the parochial schools, without being required to receive religious instruction?—I don't remember any declaration of the General Assembly in the course of last century, but their Committee have a very special declaration as to that in their Report of 1829, and it is this: "A considerable proportion of those attending at several of the schools are of the Roman Catholic Church; and it is proper to state that the schools are always open to scholars of this class, as freely, and on the same terms as the Protestants, and that the teachers have been directed not to press on the Catholic children any instruction to which their parents or their priest may object, as interfering with the principles of their own religion. The Catholic children resort, accordingly, to the Assembly schools, in most cases, without jealousy or reluctance, and receive every branch of literary instruction in the same classes with the Protestants, from the same school-books, and without any sort of distinction betwixt the two denominations. At the same time, the Committee have specially directed that the religious instruction given at the Assembly schools, whatever may be the number of Catholics usually in attendance, shall be always accommodated strictly and exclusively to the principles of the Established Church; and the Catholic children are invited to participate so far as their advisers may think proper to direct them."

What may be the number of schools unconnected with any denomination?—The number of such reported by the General Assembly's Education Committee in 1851, was 1684, exclusive of the parish schools, and also of such unconnected schools as there might be in forty parishes unreported.

Have you observed any disadvantage to schools from their too great number or proximity to each other?—As the liberty to teach and to open schools is unlimited, it may be presumed, and it is known, that in some situations there are more schools than are needed; in such cases, the emolument of the school, being kept lower than it otherwise would be, the school may suffer. Moreover there are doubtless many places where one, two, or more schools might give place to a larger one, supplied perhaps with two or three teachers, and so fitted to give better education.

Each of the different classes of schools derives a portion of its income from school-fees: can you state how that part of the income is usually applied?—Sometimes the income forms a school fund administered by the managers at their discretion; sometimes it passes at once to the schoolmaster as his appointed recompense. Of the latter case the parish schools offer an unvarying example: the assessment supplies the salary "to be paid to the schoolmaster; the heritors fix the school-fees as they judge expedient;" but the fees are collected, claimed, and retained by the master as his own. The cost of apparatus or repairs is defrayed by the heritors; and other incidental expenditure of less amount frequently by the master. Of the subscription schools, and those supported by private endowments, there are some in which also the whole income from endowment or subscription, and from school-fees, is the declared income of the master.

John Gordon.

Altogether, the schools in which his interest is thus regulated are by much the more numerous. In the rest, the income may be considered as the income of the school, and subject to such appropriations as the managers may think proper,—an arrangement most commonly found at the mining stations, where the wages of labour yield a stated weekly deduction, applicable as the managers deem proper, to school pence and other school purposes.

The teachers generally derive a part of their income from school fees: what, in your opinion, is the effect of that on the parents?—I think it has a good effect; it is the custom, and accords with the general feeling of the country. The objections to any other arrangement are very fully and forcibly stated by Sir James Shuttleworth in his book on public education.

Have you any statement to make as to the regularity with which school-fees are paid in Scotland?—Perhaps I may be permitted to use the words of one of my reports, where they give the information desired. For parish schools, the heritors and ministers are appointed by the Act to "fix the school-fees from time to time, as they shall judge expedient;" and when the rates have once been determined, they are seldom altered, and not always upon the appointment of a new teacher. The new teacher adopts the practice of his predecessor. But few masters adhere strictly to the rates as laid down by the heritor—never, it may be presumed, going beyond them—but often not exacting their full amount. The heritors fix a certain fee for each of the branches appointed to be taught; but occasionally the master regulates the actual charge within that limit by the circumstances of the parent; for at parish schools these circumstances are often very various. In this respect the master exercises a large discretion; and in this manner the payment is in some degree adjusted to the "means of the parent." A similar discretion is allowed to the master in fixing the length of time for which the payments shall be made. The practice in this respect is not always the same for all pupils in the same school. In some schools the terms of payment are quarterly, monthly, and weekly; the one or the other, as suits the circumstances of the parents. In others, the term of payment is the same for all: the most frequent, quarterly; the next, weekly;—the matter being here again determined by the habits, occupations, and means of the people. The heritors and ministers are empowered to "recommend poor children of the parish" to be taught free at the parish school. But the practice of sending pupils in this manner for free instruction is very much in abeyance. It has so far ceased from various causes; chiefly from the remarkable readiness of the schoolmasters themselves to give free instruction, wherever they know it to be required by the circumstances of the parents. Moreover, the provision in the Parish School Act for the education of poor children, is so far superseded by the recent rise, or the increase of other means of doing the same thing. The Parochial Boards, under the Act of 1845, by which they were established, now pay for the instruction of pauper children, both at parish and other schools. The Kirk-Sessions of the Established Church, being relieved by that same Act from the duty of providing for the maintenance of the poor, now educate needy, but not pauper children, from the funds produced by Church-collections. Individuals more frequently, from benevolence, educate children at their own cost; and bequests for educational purposes in a charitable manner receive occasional accessions. In these respects the practice of the parish schools is commonly followed by the other schools.

Can you give an idea of the amount of the voluntary subscriptions for the yearly support of schools in Scotland?—There are no data for a correct statement on that point. A report to the General Assembly of the Established Church in 1850, gives as "the total amount of voluntary contributions last year expended in schools connected with the Church of Scotland, or under teachers in that connexion, not including contributions in forty unreported parishes, at £19,660. Add the voluntary contributions from the Free Church, and other Churches and Societies; add also the counterpart voluntary subscriptions required to meet the Privy Council grants, and not included in the voluntary contributions from Churches and Societies,—the total amount of voluntary subscriptions is probably not less than £60,000 a year.

What control does the Church of Scotland Education Committee exercise over the management of its schools?—Others will probably answer this, for the present time, more appropriately and better; and perhaps I need only refer to what I

John Gordon.

have already said on this point, and also to their mode of dealing with Roman Catholic children in these schools.

Does the Committee lay down any rule in regard to religious instruction?—The rule which I formerly read.

That all children may receive secular education, without being required to receive religious instruction?—Yes, when on religious grounds declined.

Is the same practice common in the other schools?—It is.

The religious instruction being given on the same basis?—Yes; they generally follow the practice of the parish schools in that respect.

By what means is religious knowledge taught?—The text-books are the Bible and Shorter Catechism; and to the young, not so advanced as to read the one or the other, oral instruction by the teacher.

Do any individual scholars decline such instruction, or any part of it?—None; except such as on religious grounds decline the Shorter Catechism; that is, scholars of the Episcopal and Roman Catholic communions.

Have not the different Presbyterian communions the same standards of doctrine?—They have. The Episcopalian and Roman Catholic children are found reading the Scriptures with the rest; but declining the Shorter Catechism. But all parts of the religious instruction may be and are received by the Presbyterian children in common.

Do you consider that the plan has been found to work well, not of detaching religious instruction from the school, but of giving it apart from the secular, by teachers approved by the clergy or others of the persuasions to which the pupils respectively belong?—I have no doubt it has. I should add that schools of the kind mentioned do not happen to have been officially known to me.

Can you state to the Commission by whom the great bequests which you have mentioned are administered?—Generally by a body of trustees appointed in the deed of bequest.

To what schools is assistance from these funds given?—The Ferguson Education bequest is at present limited to the six counties of the south-west of Scotland, viz., Lanark, Renfrew, Dumbarton, Ayr, Wigtown, and Kirkcudbright.

To what schools in these counties is the fund applicable?—It is not destined to any particular class of schools; it is given to any schools, in the judgment of the trustees, after receiving a report from the inspector.

It is at the unlimited discretion of the trustees?—Yes.

And there is no denominational limitation?—I believe none among Presbyterians; but the bequest does not extend to others.

Do you know how many schools are assisted from these funds?—I do not. I only know the amount expended last year by the Ferguson trustees, which was £2800 in annual grants. They generally give about £10 to each school.

Is that given to the master directly?—Yes.

Is it given on the principle of testing by results?—It is given upon the report of their inspector, who does not test according to results ascertained by individual examination.

Mr. Dunlop.—Does the Ferguson bequest extend to parochial schools?—No.

The Chairman.—The statistics you have given to the Commission are, I believe, all founded on the census of 1851?—They are, in part.

Are there no statistics recorded in the census of 1861?—The number of schools is not given; but a further publication is expected.

Do you not consider that there has been a very great change in the ten years from 1851 to 1861?—A very great change.

Then you admit that the statistics which you have given to the Commission are to a very great extent defective?—They are very defective indeed. Those that come from the General Assembly apply to 1854, or an earlier date, and they are very nearly obsolete now.

Has your attention been directed to the return to Parliament two years ago, moved for by Mr. Dunlop?—Not very particularly; but I have seen it.

Do you think it forms a basis for more correct statistics than are founded on the census of 1851?—I could not help remarking a good many omissions in it.

Mr. Ramsay.—Are there any so-called sessional schools in rural parishes?—None; they are all in towns.

John Gordon.

The Chairman.—You have stated that, on the basis of the census of 1851, there are throughout Scotland about 5000 schools, of which 1600 are inspected schools; that would leave 3400 schools of which there is no account whatever?—Yes; of which there is no account by inspectors.

The number of inspected schools is accurate down to last year?—Down to 1863.

Mr. Cook.—What makes a school an inspected school?—Its getting a grant; or invitation of the managers without grant.

Mr. Ramsay.—There may be and are cases, I suppose, in which schools are inspected where there is no grant?—Yes. Such schools may or may not be connected. I have the particulars of the number of schools supported by the Church of Scotland, by the Free Church, by the Society for Propagating Christian Knowledge, and by the Gaelic Society; but others can more properly speak as to these.

The Chairman.—Then we can get from the Established Church and from the Free Church accurate returns as to their schools; so that it is only as to the private adventure schools that there are no statistics?—And the uninspected schools.

But the various bodies can give us a return of the uninspected schools connected with them?—Yes; there are 1700 schools in Scotland which are not connected with any Church, and not subject to inspection, as getting aid.

These are chiefly private adventure schools?—Yes.

Mr. Smith.—Are there also a great many parochial schools not inspected?—Many.

The Chairman.—Is it your opinion that the private adventure schools form an important element in the education of the country?—I think they do.

Then you think it important for this Commission to inquire as to them?—I think it very important that the Commission should make very particular inquiry as to these adventure schools.

Are you acquainted with cases in which some of these schools are efficiently conducted?—Yes, I know of some; but I am sure that many, perhaps the great bulk of them are not good schools.

Mr. Mure.—Would you mention in what sense you use the term adventure schools?—I shall read the description of them from my report of 1845:—"The adventure school is maintained wholly upon the wages paid by pupils, at the stated terms,—weekly, monthly, or quarterly. It presents a simple case of the exchange of labour for its value. The rate of wages is what the one party chooses to ask, and the other to give. The teacher undergoes no trial of his qualifications, and generally receives no express appointment, perhaps no invitation to the office. His teaching embraces such branches of knowledge as he may himself think fit to offer, and as he may be asked to teach: it matters nothing to his right to exercise the calling with what skill he may be able to conduct it. His school is visited occasionally by the clergyman of the parish; and annually by the Presbytery of the bounds, who, if it presents anything that claims especial notice, make mention of it in their annual reports to the General Assembly. The adventure school is not always placed where other schools are wanting, or beyond their range; it often happens that the protected schools do not suffice to accommodate the whole population in their neighbourhood, or that they do not afford the instruction which is desired. But generally for this class of schools, the most populous and the least populous stations have been chosen; because the former give encouragement in the amount of the resort which they afford; and because the latter, wanting probably an endowed or aided school, from the fewness of those whom it could serve, presents a clear though limited field for others. The teachers of this class of schools receive in general, as may be supposed, a smaller and more uncertain recompense than the others. How this affects the instruction which they give, it does not belong to the present purpose to explain. But when the recompense is very small and uncertain, these consequences are often observed: that the teachers give a considerable portion of their time and labour to other occupations; that they are not devoted to the business of teaching with the steadiness and zeal which it requires; and that their schools are exposed to the disadvantage of a frequent change of masters. All this might have been anticipated much more readily than the fact that teachers should have been found at all for so large a proportion of the schools now referred to. The

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adventure schools are considerably more numerous than those of any of the other classes before named. They are also, as has been said, of an earlier date in the progress of the national education; a fact which, if it had not been matter of history, might have been inferred from the consideration that nothing more is necessary to the formation of schools of this kind than the existence of a desire to be instructed, and of a capacity to give the instruction desired,—the first result of which concurrence is the adventure school; and till that has been fairly tried, and found unable to maintain itself, there appears no reason to suppose that attempts had been made to establish schools on any other footing."

Am I to understand that the term adventure school is used simply as meaning a school set up as a speculation by the schoolmaster, and so conducted?—Yes.

Are there no adventure schools which were set up on the footing of a society, or three or four individuals bearing the responsibility of building the school-house, and leaving it afterwards to depend entirely on the contributions of the pupils?—There are.

Do you consider such a school as that to come under the category of an adventure school?—If it receives nothing from the managers beyond the mere school-house, if it receives no annual aid, it is considered an adventure school.

The Chairman.—Do clergy of the various denominations generally visit these adventure schools?—They do, very largely. Those of the Church of Scotland, I know, do visit many of these schools.

You don't mean that they have any right to do so?—No; they do so on the invitation of the master.

Mr. Davidson.—The master wants a certificate from the Presbytery that he is a good teacher, and therefore he invites them?—Yes.

The Chairman.—Would there be any difficulty in inspectors getting access to these schools?—I should think none.

You think they would be quite open to inspection?—I should think so.

Then if the attention of the inspectors was called to them, they might furnish some returns to the Commission?—I have no doubt of it. In my Report of 1844, it is stated that the Presbyteries had for 1842 examined no less than 1274 of these adventure schools, and made reports upon them, and inspection might have extended to these.

Mr. Davidson.—There are cases, as I understand, in which Roman Catholic children attend the parochial school, and receive religious instruction along with the Protestant children, to this extent at least, that they have no objection to the reading of the Bible, though they object to the Shorter Catechism?—That is all.

I think you stated that there were cases in which the religion was taught separately—the secular education being given by one teacher, and the religious education by another, to the Roman Catholic children?—I know of only one school of that description, viz., the United Industrial School, Canongate, Edinburgh, and do not know it officially.

Mr. Mure.—But you said that where religious instruction was given separate from secular instruction, it was beneficially and efficiently conducted?—Yes, judging from the testimony given to that effect.

Mr. Davidson.—Are there other schools where religious instruction is given separately?—None among those known to me.

Lord Ardmillan.—Your answer referred entirely to the United Industrial School?—Entirely.

You meant that it had been efficiently conducted for the purposes of that school?—Yes.

Mr. Smith.—All the children in these schools, whatever their denomination, hear the Bible read in the school?—They do.

So far as religious instruction otherwise is given, it is given in a separate class by the master, to the extent of the Shorter Catechism?—No; not in a separate class. The Roman Catholic children read the Bible along with the Protestant children, but they don't take the Catechism.

Do the Protestant children get the Catechism at another hour?—No; the Presbyterian children are taught together all parts of the religious instruction.

Mr. Mitchell.—The Bible is universally read in the schools of which you have spoken?—Yes. I may mention now the number of schools which the different Churches have, and the amount of their expenditure upon them. The Church of

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Scotland had last year 199 Assembly schools, on which it expended £5121 ; of course that does not include parish schools. The Free Church had 610 schools ; expenditure, £7587. The Society for Propagating Christian Knowledge, which is a Church of Scotland Society, 254 schools ; expenditure, £6330. Gaelic School Society, 40 schools ; expenditure, £1218.

Mr. Mure.—Is that entirely separate from any allowance that may be made by the Privy Council?—Entirely.

The Chairman.—Will you be good enough to state when your period of inspection commenced?—In 1844.

What were the circumstances under which inspection came to be established?—When building grants were first offered, on the condition of inspection, in 1839, that condition became the subject of much discussion in the Courts of the Church of Scotland. In the following year the General Assembly declared that "there appear no grounds for rejecting the proposed grants by Government on the conditions explained in the communications of the Privy Council Board," which conditions referred mainly to inspection. But this declaration applied not merely to schools aided by building grants, but to "other schools, to which inspection might be invited by the Church or other parties ;" the object being "to ascertain the state of education in particular districts," that it might be judged "how far the interference of Government or of Parliament can be beneficially exerted by providing additional means of education." Straightway the great body of the elementary schools connected with the Church of Scotland were opened to inspection, though it was but to a fraction of their number that the whole provision for that purpose could extend. At the present time, of the 900 schools in the district last year examined by the Presbyteries, and nearly all somehow connected with the Church of Scotland, probably all are still open to inspection, from the continued prevalence of that opinion of its uses which twenty-three years ago produced the Assembly's declaration. This is perhaps as marked a testimony to the benefits of simple inspection as any that has occurred. It has doubtless been induced by the unforgotten instruction to inspectors "not to press upon School Committees any suggestions which they may be disinclined to receive."

What arrangement was made in regard to the appointment of inspectors?—At the outset of the proceedings now referred to, the Committee of Council had announced (10th November 1846) that before "they recommend to Her Majesty any person to be appointed to inspect schools connected with the Church of Scotland, they will hereafter consult the Education Committee of the Church of Scotland respecting such recommendation, and without the concurrence of that Committee they will recommend no person to Her Majesty for such appointment."

But for the agreement on that point, would the inspection have been hindered or much retarded in Scotland?—It would certainly have been much retarded.

How many inspectors are there in Scotland?—Six connected with Established Church, three with the Free Church, one with the Episcopal, one with the Roman Catholic, and one inspectors' assistant.

These gentlemen are all appointed with the concurrence of their respective Churches?—Yes.

Does this denominational connexion of the inspector occasion a greater outlay for travelling than would otherwise be necessary?—It does.

And a greater number of inspectors?—Yes, rather more.

Are you of opinion that it should now be discontinued?—I do not know how far the plan of a common inspection would be acceptable to the different Churches.

You have no opinion to offer on that subject?—I would only say that there should be no inspector on whose impartiality any one of the denominations could not rely.

You have no opinion to offer whether it would be possible to have common inspection except on the principle of doing away altogether with the denominational grants?—I do not know how far the Churches would be willing to agree to that arrangement.

Mr. Black.—Do you think there would be any difficulty raised as to inspecting any school in a particular district?—I would not feel entitled to go to any school except those connected with the Church of Scotland, unless invited.

Do you think there would be any objection to your visiting them?—I don't think there would.

The Chairman.—As matter of fact, you have never asked leave to inspect or

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examine any school unconnected with the denomination to which you are attached?—I have been instructed by the Privy Council to visit schools not connected with the Church of Scotland, but connected with the United Secession. I have two such schools.

You visited them with the concurrence of the ministers?—Yes.

And you had no difficulty in getting their consent?—Not the least.

Mr. Mure.—Have you ever been asked to visit schools not receiving Privy Council grants?—Very largely.

Did these belong to the Church of Scotland, or other denominations as well?—Not to other denominations, except the two referred to. Some were adventure schools not belonging to the Church of Scotland. I have never visited any belonging to the Free Church, because there is a Government inspector specially for them.

The Chairman.—To what schools did inspection extend previous to the grants of annual aid?—To all the schools, of any sort, connected with the denominations to which the inspector belonged. Thus the Church of Scotland inspector would visit, always with the concurrence of the parish minister, not only the schools specially in its connexion, but those also which the Presbyteries were used to visit yearly. In this way, his inspection included the great body of the schools, parochial, sessional, assembly, society, subscription; those on private endowments, and those unsupported, or what are called adventure schools. An inspection, for instance, of the county of Ayr, at that time, included 85 schools; of the county of Renfrew, 61.

Is the class of adventure schools admissible to receive the public aid?—No. There are hindrances, in the want of local management, the want of voluntary subscription, and the frequent want of certificated teachers. The correspondence of the Council Committee takes place not with the teacher, but with the school managers.

Did inspection, before the grants were given, serve any other purpose than to procure the information desired by the Committee of Council?—It was useful otherwise, and intended to be so. In the instructions given to inspectors at the outset, they were required to "afford to the promoters of schools an opportunity of ascertaining, at the periodical visits of inspection, what improvements in the apparatus and internal arrangement of schools, in school management and discipline, and in the methods of teaching, have been sanctioned by the most extensive experience." The results of inspection previous to the grants were, in many instances, new or improved school-buildings; a better supply of apparatus; it may be said, an increased respect and attention to their work on the part of teachers, from the interest taken in it by Government; and school-managers always availed themselves of any remarks which the inspector might have suggested. So that inspection without grants, and apart from the information it supplied to the Council Committee, served good purposes.

Was there any marked difference of efficiency in the different classes of schools inspected prior to the grants?—Generally parish schools, as might be expected from their endowment, had the advantage of the rest; though amongst them there were marked instances of failure, and of failure without remedy; for the remedy against simple inefficiency, however great, only came by the new Act of 1861. It was usual to compare the parish with the other schools, in respect of the success with which the different branches were taught,—as in the Reports, 1845-6 and 7.

Does the same difference continue betwixt the endowed and the unendowed schools, which you have inspected, since they received aid?—The difference is, in this case, reduced in several ways:—(1.) The teachers of the unendowed schools have now what they had not then, that measure of qualification which is implied in their possession of the Government certificate. (2.) Many teachers, both of the endowed and unendowed schools, have had the same common education at the Normal Seminaries. (3.) Many of the unendowed schools afford income to the teachers equal to that of the parish schools, and sometimes greater. That is particularly the case with schools in the mining districts.

In what respects do you find that the grants have improved the quality of education in the schools?—The greater part of the schools, now annually aided in the south-west, began to receive aid within the last ten or twelve years. Among them are some female schools of industry; and in the general progress

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that has taken place, there is nothing more remarkable than the increase of schools of that description. Instruction in needlework is the object of them all. But in some instances the whole of the female education, literary as well as industrial, is conducted by female teachers, in schools for female children only,—upon a notion that the best treatment of the sexes is by distinct kinds, distinct methods, and in distinct places of education. But the more common course, where both a male and a female teacher are in one institution, is to divide the task of the book instruction betwixt them; assigning the different branches according as they are supposed to suit the natural aptitude of the one or the other, and commonly giving to the male teacher such subjects as arithmetic, grammar, and geography. Another effect of the public aid is a general increase of the school attendance, which, five years ago, amounted to no less than 20 per cent. for the schools then receiving aid. Again, the elementary subjects have been so taught as to produce more good culture than it was formerly supposed they were capable of yielding. Farther, it is apparent that teachers throughout the district become more and more aware how much of skill, art, or science may be employed in the teaching even of elementary subjects; and this opinion cannot but have a good influence upon their practice. In general, it may be said, that the annual grant depending on the annual report, and the report being always communicated to the managers, the teacher finds, in these circumstances, a strong motive to his best exertions.

How many subjects are usually taught in the elementary schools?—Usually from five to eight: Reading, Writing, Grammar, Arithmetic, History, Religious Knowledge, etc.

Can you state whether there has been any decline in the number of scholars in the elementary schools, who go on to the learning of Latin, for instance?—Not perhaps so much in the number as in the progress they are making.

To what do you attribute that?—Mainly to this, that there is but one teacher in the school, and he has enough to do in teaching the elementary branches, greatly developed as these have been within the last thirty or forty years. If, therefore, in the parish schools the higher branches are to have justice done to them, there must be another teacher for that purpose.

Then you think Latin has been supplanted by other branches of education, which have become of more importance?—I think so.

Has it been the practice, on occasions of inspection, to examine the progress of the children on each and all of the subjects, and to examine all the pupils on each subject?—Not always all on each subject, but such and so many as might serve to give a notion of how the instruction was conducted; that is, of the fidelity and talent of the teachers.

What length of time was usually occupied by the inspection of a school under the Old Code?—In general, the time was determined by the circumstances of the school,—as by the amount of the attendance, the number of the branches taught, the extent to which they were taught, the various degrees of progress on the same subject in different classes, and by the inspector's knowledge, both of the school and the teacher, derived from former visits. This last circumstance is mentioned in the instructions upon the New Code, as one that may be considered in apportioning the time for some parts of the examination. The effect of these different conditions of a school, is that the time required for one of fifty pupils, might suffice, perhaps, for one of twice or three times that number.

What length of time is occupied by inspection under the New Code?—A good deal more, from the system of individual examination, and the marking of individual progress. But this takes place mainly on the subject of reading; on those of writing and arithmetic the simultaneous method is still in use; that is, in school the performance on these subjects is *simultaneous*, and there could be no reason for its being managed otherwise. Only the examination of each of the written performances under the three more advanced Standards is the work of the inspector afterwards; so that the time occupied in the inspection of a school, though more than formerly, is less increased than might be supposed; still less, of course, when there is the aid of an assistant.

May I ask what means you have of answering that question, because the New Code has not come into operation in Scotland?—It has partially; the examination of schools is now conducted by the mode laid down in the New Code.

Since when?—Since the beginning of May.

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Although the grant has not been administered on that principle?—Yes, I have examined seventy schools according to that mode.

Do you find any practical difficulty in examining them in that way?—None.

Do you think it as easy to test the relative efficiency of schools in that way?—I do.

Do you think that, on the whole, or on the average, schools would get as much benefit from the Privy Council grant under the New Code as under the old?—I am not prepared to answer. There are some schools in which the grant would be considerably greater, and some in which it would be less.

It is not your opinion that there is anything in the peculiar circumstances of Scotland which would make it more difficult to apply it here than in England?—I am not acquainted with the English schools, but I think the individual examination, which is all of the New Code that has yet been tried here, is well fitted to be applied in Scotland. The examination, as now conducted, does not merely ascertain the "results;" it is fitted to improve them by the influence which it cannot fail to have upon the style of the tuition. A limited range of instruction is parcelled into six distinct grades, in each of which the appointed measure of attainment is indispensable. The habit of a hasty advance, so frequent in school work, is thus effectually checked; and that of a deliberate, sure progress promoted. Other errors in school management the new examinations may be expected to correct: the subject, it may be, has not been well suited either to the years or progress of the pupil; the revision of lessons has been too little practised; the best spelling methods rejected as too slow; the reading lesson-book often too difficult. To all such mistakes the new examination is certainly adverse.

Would it not in some cases tell severely against the master, from causes over which he has no control, inasmuch as it goes on the principle of attendance, and the attendance depends on the parents and not on the master?—That may be; I am not as yet particularly conversant with instances of that kind.

Are you not aware that it is a frequent complaint with masters in Scotland that they are unable to get parents to send their children to school regularly?—Yes; the intention of the rule in the New Code is to promote better attendance.

There is no inducement to the parents to send them more regularly?—The New Code goes very much on the principle that it is possible to improve the attendance.

Is that your opinion?—I think more may be done in that way, though of course there is a great deal that no one concerned—teachers or any other—can do.

Mr. Mure.—You stated that the inspection is at present carried on under the New Code, and I understood you to say that under that new system there were schools where a larger grant had been got from the Privy Council. What is the new rule as to the sum paid per head, as applicable to Scotland?—It is not yet applicable in any instance.

So that the additional sum which you say may be got at present is a sum payable under the old rule?—The amount is still the same as under the Old Code.

Though under a new system of inspection?—They are all paid under the Old Code.

Mr. Smith.—I understood you to say that it was as taken under the Revised Code that the increased sum to teachers would arise?—Yes.

But it has not yet been paid?—No.

Lord Ardmillan.—You mean that the success of an examination, on the principles of the New Code, would lead in some instances to an increase of the allowance to the schoolmaster, but has not actually done so, because they are not paid on that principle?—Yes.

The Chairman.—What has been the effect of the increased attention given under the New Code to the primary branches, upon those more advanced?—I have not hitherto observed that this has been prejudicial to progress, in the branches beyond the six Standards. But if, under other circumstances, the advanced branches should appear to have received less attention than they ought, the remedy may be sought in adding to the staff of teachers, including assistants, etc.; the occasion and the remedy being much the same as those mentioned in reference to the decline of subjects above the elementary, in the parish and other schools, as noticed thus:—"The custom of the country does not provide schools for one class exclusively, but unites in the same schools children from various conditions of life. In most of the aided schools, there is therefore a portion of the pupils who are not of the

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labouring classes; whose attendance is well prolonged and regular: who are therefore in a condition to be instructed more fully than the rest in the branches that are purely elementary, and to seek instruction in others not elementary. The schools in which the instruction accordingly goes more or less beyond the elementary, or the usual scope of the elementary, are about a fourth part of the whole number. The fact is noticed only to suggest, that if both the higher and lower instruction are to be maintained in the same school, more than one teacher is in most cases indispensable."

How many schools in your district have been examined under the New Code?—Seventy during last summer.

What is the general character of instruction in aided schools when it goes beyond the elementary subjects?—In the proportion of the passings under the different Standards there was a very marked inequality. The failures appear to have been mostly under the 1st and 2d Standards; that is, in the younger classes of the school, the instruction of which had been often disconform to what is required for the Standard examinations. The decline of numbers from the lowest to the highest degree, examined according to the Revised Code, implies the shortness of the period of attendance, and thence the necessity of looking well to the progress realized at these stages, and of making it by all practical means as good, as exact, and generally as availing as possible. And this course becomes the more needful, looking to the ages at which many were presented for the simplest examination. The proportion of those from 8 to 10 or 11 years, examined under Standards 1 and 2, will appear in the tables of results. The new examination accords in its estimate of the wants of the schools, on the whole, pretty much with the old. It had been formerly remarked, that when a teacher shows much care on the treatment of young classes, his fidelity towards all the rest may be relied upon. And so, under the new examination, a good report on Standards 1 and 2 assures the like for those that follow; nay more, a good report on all the Standards commonly gives the like on subjects or parts of subjects that pass beyond the Standards. On the other hand, it does not happen so commonly that an approvable measure of success in these latter respects is attended with the like, in at least the first two subjects of the Standards; the reason being, that "instruction and examination have (at least so far) not gone *pari passu*." In this matter, the requisite change may be said to be in progress; for teachers agree in the importance of grounding well in the earliest lessons; and the practice of noting individual progress, though it may bring to view defects for which they may not be answerable, has uses and reasons that are unrecognised, I think, by none among those whose schools have been examined on this plan.

Have you remarked that very poor localities, without any proper means of education, have been unable to avail themselves of the Government grants?—There are such localities, and chiefly in the Highlands; the hindrances being partly the same as those already noticed in regard to adventure schools: the want of proper school accommodation, the want of certificated teachers, also the want of voluntary subscription, but never the want of a local management; for in these parts there are no adventure schools, and can be none, from the smallness, or nothingness, of the income from school pence. But the schools there have some management; usually clerical. And the instances of inability to meet the condition of voluntary contribution, though numerous, are less so than they would be, for this reason, that "in certain cases the subscription towards salary is not required to be a local subscription, but may be derived from a distance. The salaries granted by Education Societies or by Churches, from funds raised by voluntary subscription throughout the whole country, are received, as fulfilling so far the condition of augmentation, and commonly they do so completely. In Scotland, the poorest localities are the Highlands and Islands; but these districts are covered with schools supported by the Churches or by societies, and thereby a number of them are placed financially in a condition to claim the annual grants. Perhaps, indeed, the proper school accommodation is oftener wanting than the subscription.

Would you think that an inferior class of teachers might suffice for remote and poor localities, as in the Highlands?—I know there are opinions on this point well entitled to consideration and respect, and different from that which, with great deference, I would venture to express. The task of elementary teaching is as difficult in the Highlands as elsewhere, perhaps a little more so, from the pre-

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valence of two languages. And when the instruction is only elementary, it seems fair that it should be as well given in one district as in another. The qualifications implied in the Government certificate, of at least the third, or lowest class, may, I think, be properly required in the Highland teachers.

Is it your opinion that the requirements of the Privy Council, in regard to the character of school buildings, have been so severe, as in very poor districts to exclude schools from grants which might very safely have received them?—Yes; I should think buildings in the Highlands need not be required to be of the same description as in other districts.

Don't you think the two languages is rather a facility in some cases?—It has an excellent effect in quickening the minds of the young, but I think it somewhat adds to the difficulty of teaching the usual subjects.

Don't you think the necessity of translating from one language into another facilitates the knowledge of grammar?—I think it must.

Have you ever inspected schools in the Highlands?—A good many.

Have you not observed remarkable proficiency in some boys from that cause?—I have noticed much proficiency in grammar and the other subjects in Highland schools.

How many burgh schools are in the district with which you are connected?—Fourteen.

What is generally their description?—There are two "consisting only of a royal burgh, or part of a royal burgh," which have no claim to any school provision under the Parish School Act. Of the rest, there are two or three which, though "consisting of a royal burgh, or part of a royal burgh, and a landward heritor or heritors," do not appear to have a "schoolmaster appointed and maintained" in either of the ways pointed out by the Statute; among these, the royal burghs of Ayr, Kilmarnock, and Irvine, in which the present academies are known to have been originally parish schools, but are now constituted in a different manner. It is however to be observed that the original plan of a parish school seems to have been there set aside only because in such situations it was found insufficient or unsuitable. The public aid has extended to only three of the burgh schools; to others it is inapplicable, and has been refused, because they are not enough frequented by "children of the labouring poor," for whom the grant was intended, nor enough available to that class from the rate of school fees. The unaided burgh schools are mainly for children of the middle and higher classes; and the instruction which they offer is more than elementary, showing occasionally a considerable progress in languages, mathematics, and physical science. They exemplify what has been elsewhere termed the "superior primary school" proposed for every town having a population of more than 6000; but their constitution as superior primary schools is not distinctly appointed by the Statute, nor can the statutory provision be considered as in general adequate to their support as schools of that order. In the original sketch of the parish school system it was proposed that "in every notable town there should be erected a college in which the arts, at least logic and rhetoric, together with the tongues, be read by sufficient masters." But in the Act of 1803 there is no express provision of this sort; and the town school is not there designed to any higher tuition than what is usual in the common parish school. Here, then, is an obvious defect in the educational system of Scotland: a want of sufficient public provision for a much needed high class of schools.

It is then by the improvement of the burgh schools mainly, that improvement is to be effected on the education of the middle classes?—This seems to be the case in Scotland; though much might also be done by second masters in such of the parish schools as might require them.

How many ragged schools were under your inspection, previous to the change transferring the payment of their allowances to the Home Office?—There were five altogether; but there was nothing, I think, to distinguish them from other schools of the same class.

How many schools of the kind called industrial are at present aided by the Council Committee?—"The school at Pollokshaws is the only one now aided in the district, that affords to the male pupils a regular and complete training for the trades which they are afterwards to practise: carpentry, tailoring, and shoemaking. In one or other of these ways, upwards of 100 boys are at work on the premises for some hours daily, and this without hindering a proper attention to

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the indispensable common book lessons. It is here seen, that the one occupation is not incongruous with the other; the best effects of both being the mental and the moral discipline which they produce, and which are common to both in perhaps no very different degree." It should be added that "in all schools under mistresses, sewing and knitting are taught to all the girls of proper age; and sewing-mistresses, in accordance with one condition of the public aid, are attached to the greater part of the schools taught by masters—the like provision for the rest being understood to be in progress." The number of sewing-mistresses in the parish schools has been already mentioned.

How many night schools are there in your district?—They are pretty numerous; but not more than six or eight which there has been occasion to inspect. "All of them are in towns, and attended by persons of both sexes, from fourteen to forty years of age, all of the labouring classes, and themselves occupied throughout the day in factories, shops, warehouses, or domestic service. Evening schools not receiving aid exist in greater number, and were not inspected, as not offered for that purpose. Of those inspected it was remarked—1*st*, That in equally populous localities the attendance was of very different amount at different stations: at one, 30; at another, 150. 2*d*, That in these cases the difference is equally remarkable in respect of the regularity of attendance. 3*d*, That on entering, very many at one school have yet to learn the alphabet; at another, two-thirds can read well, but come to be instructed in the other elementary branches; and in one instance, thirty of their number are employed in drawing, freehand, architectural or engineering—a study of the industrial kind, taken with a view to immediate use in their own daily occupations. 1*st*, These facts seem to indicate that evening schools are much fewer than they ought to be; and, 2*d*, That a greater measure of encouragement, such as that now provided by the Revised Code, will be well bestowed upon them."

What are the several forms of aid given by the Committee of Council?—Augmentation of salary, payment of pupil-teachers, and building grants.

How many annually aided schools are there now in Scotland?—The report of the Committee of Council for 1863-4 gives 1606 as the number of certificated teachers whose schools were visited during the year ending August 1863, on account of annual grants.

How many pupil-teachers are there in the yearly-aided schools?—The same report gives 2259.

What is the amount of the annual grants for the same schools?—

By the same report, . . .	£68,482	4	0
And for Normal Schools, . .	26,141	15	0
	£94,623	19	0

The rate of grant per scholar in average attendance is 8s. or 9s.

What are the numbers respectively of the aided parochial and non-parochial schools in your district?—Total number of parochial, 176.

Parochial aided, ...	54
Non-parochial aided, . . .	180
Total aided, . . .	234

The Old Codes required voluntary contribution to meet the grants of aid: does the New Code do the same?—Not expressly, but often in effect, for when the amount of school-fees does not equal the grant, the difference has to be made up by subscription.

What proportion of the pupil-teachers, on finishing their apprenticeship, or before it is finished, do not become teachers?—97 pupil-teachers, throughout the district of the south-west, ended their apprenticeship in the course of the year 1862; 69 of their number became candidates for Queen's scholarship, all of whom succeeded; two straightway became teachers or assistant teachers; and a fifth part of the whole number went off to other occupations.

There are two Normal Schools connected with the Church of Scotland, at Edinburgh and Glasgow: what have you to say in regard to them?—The Government and the Church are alike interested, and occupied in making them as useful as possible to the elementary education of the country. The attendance of male and female students at each, during the present session, somewhat exceeds 100. Their attendance had been greater for some years preceding; but, as

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hundreds have been added, year after year, to the supply of qualified teachers, the same amount of attendance has not been necessary. The results of the annual examinations prove that these seminaries are well conducted.

What proportion of students usually pass the examination for certificate?—The proportion of those who pass is very high, and nearly equal in the two schools of the Established and the two of the Free Church. Of 172 examined at the Glasgow Established Church last year, 163 passed.

Do the students, on leaving the seminary, soon find occupation as teachers?—The rector of the Glasgow Normal School reported, in the end of 1862, the situation at that time of all the certificated students, of both sexes, who left the seminary within the four years ending December 1861, adding the following summary:—

	Queen's Scholars.			Not Queen's Scholars.			Total.
	Male.	Female.	Total.	Male.	Female.	Total.	
Total number of students who received certificates in the four years,	127	72	199	20	31	51	250
Number of these who have become teachers,	121	69	190	18	26	44	234
,, waiting for appointments,	1	1	2	2	3	5	7
,, who have gone off to other occupations,	5	1	6	...	...	...	6
,, died and never appointed to schools,	...	...	...	...	1	1	1
,, married and never appointed,	...	1	1	...	1	1	2

Of the total 250 certificated students, six are here stated as having gone off to other occupations than that of teaching.

The rector reports as follows the position at the end of 1863, "Of the 70 students who quitted the seminary at Glasgow," (E.C.) with certificate, in December 1862:—

	Male.	Female.	Total.
Appointed to schools as principal teachers,	19	14	33
,, ,, Assistants,	17	5	22
Remaining without appointments,	3	12	15

It was added that the 15 who remain unoccupied are unchanging in their desire to obtain the charge of schools.

Could the Normal Schools now be dispensed with by any other arrangement, as by University attendance, coupled with attendance, as originally practised, for a limited time at some good schools, for seeing good methods of teaching?—I fear the object could not be by these means so well attained. For one thing, the substitution could not apply to the female students. Neither for male students does the University give so specially the sort of knowledge required for elementary teachers; and if they did, the greater part of the elementary teachers could not find the means of attending the University. It is well that teachers should know the principles on which their practice proceeds; but these can be given sufficiently by the able rectors of the Normal Schools, and they, in their position, have the advantage of school practice before them in a degree which is essential. At the same time, University attendance by teachers is greatly to be encouraged; and it may be suggested for consideration whether a session or two at the University might not be required of the candidates for some schools, as the parochial; to such the Normal Schools would of course be of the less consequence.

What local resources, in addition to those now in operation, do you think could be added to the means of education?—(1.) The late increase of private endowments is not without promise for the future. (2.) The income from school-fees may also be increased, though perhaps less from any rise in the rates than from the increase of attendance under the operation of the Revised Code, and, it may be, from carrying to other employers of children that practice which the Statute introduces in factories, and which the mine owners have voluntarily adopted at the mines, of paying for the children's instruction by a small deduction from

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wages. (3.) Increase of the voluntary subscriptions will depend much, of course, on the encouragements that may be given by the conditions of any grants from other sources. (4.) No new local resource would accord so well with the parish school system as an extended school rate, applied where the means of education are ascertained to be deficient.

Are there any common principles of government in all the differently classed schools of the country, that might be considered in reference to any further extension of the public schools?—In all cases, except the very few in which a pure charity was intended, the instruction is paid for by a rate of school pence; the amount of which advances as the instruction advances, but throughout, the scale is pretty well adjusted to the circumstances of the parents, insomuch that commonly all demand on this head is waived to parents deemed unable to answer it. (2.) Salary is added to the school pence, to make the master's income sufficient or secure, unless where both objects are otherwise attained. (3.) The school is under local management, which regulates all parts of its economy, including the appointment or the removal of teachers, the rates of school pence, the hours of teaching, and the subjects of instruction. (4.) The managers are those who chiefly contribute to the maintenance of the school, or their representatives. (5.) The school is very generally open to the visits of the local Presbyteries. (6.) The Government inspection is very generally accepted, even independently of any grants of aid.

There is one other common feature: Bible instruction is given in all?—Yes.

Mr. Black.—What is meant by Bible instruction? Is it merely reading the Bible, or is the teacher supposed to explain it also?—He generally explains it; but if there be a portion of the pupils who are not Presbyterians, he is very probably sparing in these explanations.

The Chairman.—Are the explanations not generally rather of a historical character than otherwise?—They are generally more historical than dogmatic.

Lord Ardmillan.—Is the actual reading of the Scriptures a thing of universal requirement in the Scottish schools?—Yes.

The explanations may be given more or less sparingly, according to the religion of the pupils present?—Yes. The religious instruction conducted in that way is common even in the 1700 unconnected schools.

The Chairman.—You alluded incidentally to the disadvantage at which the parish schools were, as compared with other schools, before the late Act, in regard to getting rid of inefficient masters: have you not had cases under your observation in which that disadvantage still exists, in spite of the late Act?—No case of that kind is known to me. I have known cases since the late Act in which application was made for examination, preparatory to getting rid of an inefficient teacher; but there was always resignation. That is the way in which the Act seems to operate, by inducing resignation.

Have you met many such cases?—Very few; in my district there are only 172 parish schools altogether.

What is your district?—It comprehended Lanark, Renfrew, Ayr, Wigton, Kirkcudbright, and Dumfries. It is now reduced to the counties of Lanark, Renfrew, Dumfries, and Bute.

Sir J. Fergusson.—Have resignations been obtained by private solicitation without reference to any threat?—Yes.

Mr. Davidson.—How many cases have you had in your district under the Act?—I think only two; and I succeeded in persuading the teachers in both cases to resign.

Are these the only two cases you know where there has been resignation?—Yes.

Sir J. Fergusson.—Under threat?—Only on advice thankfully received. Both teachers were old and infirm.

Mr. Smith.—Have you had any difficulty in getting rid of inefficient masters since the new Act was passed?—No.

Mr. Mure.—Have there, practically speaking, been more changes in masters since the passing of the Act than there were in the same number of years preceding it?—I have no doubt of that.

The Chairman.—What do you consider to be the difference between the new law and the old law in regard to that matter,—what are the deficiencies which would, in your opinion, entitle the heritors to get rid of a master?—Simple inefficiency

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is now a cause of removal; it was not so before. That is the great point of difference.

There has been no case in which the dismissal of a master has been disputed before the Courts?—I am not aware of any.

Then a legal interpretation has not yet been put on the Statute in your district?—No.

Mr. Ramsay.—If you were sent to inspect a school, the teacher of which was charged with inefficiency, and if you found four scholars there who were as far forward as you usually find such boys in other schools, could you give a certificate that it was the inefficiency of the teacher that was the cause of the small attendance?—I should think not; but it would depend on circumstances.

The Chairman.—You alluded to a system which prevails in Scotland of educating boys and girls together in the parish schools: what is your opinion as to the effect of that on their education,—do you think it a good or a bad system?—For one thing, the process of detaching the girls to separate schools, and putting them under the charge of mistresses, is going on pretty rapidly.

Don't you think the girls have been very efficiently taught on the whole, and that the feeling of rivalry with their brothers, etc., has produced good results?—Yes, I think that must have been so.

With reference to ragged schools, you spoke of the recent Act as transferring the support of those schools from the Privy Council to the Home Office: do you consider that the change was a mere transfer of payment from one office to another,—was there not a greater change,—was there not a large class of children in regard to whom payments were made formerly, for whom no payment is now made?—Those that are paid for by the Home Office must be placed in the school, under Lord Palmerston's Act; they must have been convicted of some petty crime, or they must be placed there under Mr. Dunlop's Vagrancy Act.

Is not the difference that, whereas under the former system the State aided in the education of children who were not convicted of any crime, it now assists only in the education of children who have been convicted before the Criminal Courts, or under Mr. Dunlop's Vagrancy Act?—Where the children not convicted of crime have been very poor, they have looked to obtaining relief from the parish boards.

As a matter of fact, the unconvicted ragged class has ceased altogether to receive any contribution from the State in aid of their education?—Yes, excepting the ordinary schools, in which they obtain aid in the usual manner.

Has that experience told severely on the interests of any of the ragged schools?—I am not aware; I have not had occasion to visit any of these schools since the change took place.

Lord Ardmillan.—Did I understand you to say that in schools where there is a considerable demand for higher teaching, such as Latin, you think that the one teacher might not be sufficient to give the elementary instruction and to give that higher education?—Yes.

And you think it very desirable that there should be another?—Yes.

I presume that the teacher appointed is appointed on the footing of his being qualified to give the higher instruction?—To a certain extent.

Then the second teacher which you would in such cases require, would be one who would practically relieve the master of the elementary instruction: is that so?—The one or the other might take the elementary part. It could be arranged according to circumstances, the new teacher taking either the higher or the lower.

Lord Polwarth.—Would you wish to establish that system in the rural parishes?—In some of the rural parishes it would be a very desirable arrangement.

How would you propose to supply the means of obtaining two teachers in the rural parishes?—That question I cannot answer.

Where there are not many of the middle class, would you think it advisable or necessary that there should be two teachers, one of whom should take the higher branches, by which I suppose you mean Latin, Greek, and Mathematics?—Yes, these are the branches meant; but where the demand for them is inconsiderable, a second master would be unnecessary.

Do you think that a necessary part of the education of the people, for which the State is to supply the means?—Perhaps not the State, but it might be got from local sources.

And you would supply that in all the rural parishes?—Not by any means.

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What distinction would you make?—It would depend on the character of the population for whom the school is provided, and the number of pupils who would probably seek for that higher education.

Mr. Cook.—What authority would determine when a second teacher is wanted?—That is a very large question.

You have no suggestion to make as to that?—No.

Mr. Black.—You have stated that it is desirable that some of those who pass through the Normal School should take a class at the College?—Very desirable, whether they have been at the Normal School or not.

The probationers of the Kirk used to be the persons who taught the schools: might not such a one pass an examination, and, if found qualified, get a certificate, though he had not gone through the whole education at the Normal School?—There is no rule for granting certificates in such cases, but such a one, if in charge of a school, is admissible to the examination for certificate.

Supposing he had got a University education, and proved himself qualified as a probationer for the Church?—That would be a very strong case for the granting of a certificate; but at present there is no provision for granting a certificate without the usual examination.

Mr. Ramsay.—You have expressed an opinion that the classics are now less perfectly taught than they used to be in the parish schools: do you think that the instruction in the higher branches of arithmetic, and the elements of mathematics, are less perfectly taught?—I have no reason to think so.

You don't think that there has been a corresponding deterioration there?—I believe not.

In mathematics?—I would say in the ordinary schools mathematics are not better taught than the classics.

The Chairman.—Do you approve of notice being sent to schools before they are inspected?—We generally send eight days' notice.

Do you approve of that system?—I think there is no harm in it. The teacher cannot do much in the way of preparation in the course of eight days.

Mr. Ramsay.—May it not affect the attendance?—No doubt; but still there is the register of attendance, which he keeps, and which is always shown.

Mr. Mure.—Assuming that the schoolmaster appointed to a school, either under the parochial school system or under the Privy Council regulations, is competent to teach those higher branches, could not the mere elementary branches be overtaken by him, with the assistance of the pupil-teachers?—Yes; to some extent.

So that in a small rural parish, where you have a schoolmaster competent to teach those higher branches, you would not require a second master, if you had a pupil-teacher?—A pupil-teacher never does the work so well as a certificated teacher. I don't know that much could be trusted to the pupil-teacher,—at least to the effect mentioned.

Could not the pupil-teacher relieve the principal teacher of a large part of the elementary work, so as to leave him free to teach the higher branches to those who wished them?—I should fear not to the requisite extent.

Lord Polwarth.—You think the elementary teaching would in that case suffer?—I think so. If the master gave the greater part of his time to the higher branches, and left much to the pupil-teacher, I think the lower branches must suffer.

Then perhaps the main object of the education of the people would suffer in that case?—Yes.

Sir J. Fergusson.—That was the tendency of the old system?—It was.

Mr. Mure.—You said that the higher branches had been in a great measure supplanted of late years?—By the greater development of the elementary branches.

At what period of time would you say that supplanting began?—I would say about thirty-five years ago, or more.

The Chairman.—How many schools have you in your district for sewing only?—Schools for sewing only do not receive any aid from the Privy Council Committee, so that I am not prepared to answer that question.

When you said that the girls were gradually getting separated from the boys, did you mean that schools were being established for girls alone, in all branches?—They teach all the elementary branches when they get Government aid; Government aid is expressly refused when nothing more than sewing is taught.

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From what class do you principally draw pupil-teachers?—Female pupil-teachers come from a superior class to that which furnishes male pupil-teachers. The female pupil-teachers come from schoolmasters, farmers, and shop-keepers; the male from a somewhat inferior class.

Sir J. Fergusson.—Are complaints not common against the condition which is made by the Privy Council, that instruction in needlework should be given to all female pupils?—They were very common at first, but I am glad to say there are very few of the schools receiving aid in my district where there is not a provision of that kind.

Have you known cases in which several schools in a parish, receiving Government aid, it has been found impossible to furnish the means of instruction in needlework?—There has been considerable difficulty, but it has been overcome in the great majority of instances. There are some cases in which the sewing-mistress has not yet been provided; but they would not have continued to receive the Government aid, unless on promise that sewing would be provided shortly.

Is it not possible that cases may arise in which useful schools might be deprived of the Government aid, because of the inability to provide instruction in sewing?—Cases of that kind would very seldom occur.

Mr. Mure.—Have the schoolmasters who for the last ten or twelve years have been appointed to the schools which have come under your inspection, been less qualified to teach the higher branches of education than the teachers who used to be appointed some years previously?—No, I have no reason to think so.

Have the rules of the Privy Council as to the qualification of schoolmasters, had any effect, prejudicial or otherwise, since those rules came into operation in Scotland?—I am not aware that they have. Upon that point, I lay on the table the syllabus of subjects of examination.

Mr. Ramsay.—Examination in Latin, Greek, or Mathematics is not a requisite for a certificate?—It is not indispensable, but they may take it if they choose; and parish schoolmasters are always required to have some measure of such attainments.

Mr. Dunlop.—In regard to your suggestion as to the appointment of an assistant master, do you contemplate superseding a certain proportion of the pupil-teachers?—Yes.

You think the appointment of an assistant would render unnecessary a certain number of pupil-teachers?—Yes.

Have you formed any opinion as to the superiority of the two systems,—an assistant, or pupil-teachers as at present?—As teachers, I would very much prefer assistants to pupil-teachers, in the last year of their apprenticeship.

You told us that of the pupil-teachers in your district you thought only one-fifth left the profession?—Yes, at the end of the apprenticeship.

They went on to the Normal School?—Those who remain in the profession commonly do so.

Can you give us any notion of the proportion between the number sent out qualified each year and the number of vacancies occurring within your district?—No. I stated that of 250 certified students there were only six who left the profession after they quitted the Normal School.

Mr. Smith.—And only four out of the number that passed were waiting for situations?—Seven.

Lord Polwarth.—You said you thought that the teaching of the higher branches in the parochial schools rather tended to turn the attention of the teachers to those higher branches than to the elementary branches: do you think that would be remedied if it were possible to establish local or district schools, of a higher class, for the higher branches of education?—If there were separate schools in the district accessible to the greater part of the population, for the higher branches, then the second master in the common school would not be necessary.

Then these would be schools for the middling classes?—Yes.

Or where there was any extraordinary development of talent in the lower class, the persons displaying that talent would be brought somehow or other to those higher class district schools?—Very properly they would.

You think it very advisable, if possible, to establish something of that sort?—Very.

What number do you suppose might be required for Scotland,—would it be

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according to the population and richness of the district?—Yes; and perhaps other circumstances.

Mr. Davidson.—What area do you think a district should be?—It would depend very much on the character of the population, and their occupations.

Would you have institutions where these pupils should be boarded?—No.

Mr. Cook.—You mentioned a class of cases, such as Ayr—parishes partly landward and partly burghal—where the burgh school had been originally a parish school, but had now fallen under separate management: do you know whether there are in these parishes separate parish schools besides the burgh schools?—I am not sure as to that.

Do you know whether the assessment on the landward heritors goes to the support of the burgh schools?—It does, I am aware, in one instance.

Mr. Smith.—I understand that in addition to the general report you make to the Privy Council on the general result of your inspection, you make also a special report on every school you have examined?—Yes.

Could we get copies of those special reports?—I do not know; for some years they were printed and published, but this has been discontinued.

Dr. CUMMING,—*examined.*

Dr. Cumming.

The Chairman.—You are an inspector of schools connected with the Free Church of Scotland?—Yes.

What is your district?—My district has varied. When first appointed in 1851, I was inspector of Free Church schools in all Scotland. In 1858 there was a portion cut out of my district and assigned to Mr. Wilson, who had been my assistant; and from that time to the present year my district has extended from Berwick to the Orkneys, all along the east coast, excluding Lanark, Ayr, Argyle, Galloway, etc. Within the present year another subdivision has taken place, so that I go no farther north now than the north of Perthshire; but what I am most familiar with is the district which I have had for six years, including the whole of the east coast.

Can you state the number of schools which your General Assembly supports?—I don't know that, because I am not the Free Church officer at all. There are many schools connected with the Free Church with which I have nothing to do. I only visit those that have some claim on Government.

Can you state the number of schools having Government grants which you inspect?—The number which I stated in the report for 1863 was 297 schools, including 333 departments, inspected by myself or my assistant, Mr. Scougall. Many of these schools would be considered as double schools, having a master, and a female teacher teaching the infants or the junior department. These two teachers are not responsible to each other, but to the same management. We consider these double schools. And Mr. Wilson, who now inspects the schools in the south-west of Scotland, visited in that year 157 schools, containing 220 departments. I have also got the number of children present in the schools on the days of examination. The number present in the schools which I visited during 1863 was 31,846; and I find from Mr. Wilson's report, that during the same period he inspected schools containing 17,597 children. The total number of schools, therefore, which we visited was 454, with 553 departments; and the number of the children was 49,443.

The Lord Advocate.—Is that return a complete return of all the Free Church schools?—That is a return of those connected with Government. There may be a dozen or so, more or less, which we were not able to visit; but that is a complete return of the whole schools that we visited for the year ending 30th September 1863.

The Chairman.—As to the schools under your inspection, what evidence can you give as to the principle of selection of the sites,—were they put down in localities where they were necessary for the education of the district, or were they put down with reference to any other consideration?—I don't think that they could be put down, excepting with reference to the wants of the district, because the occasion for them has always to be stated to the Government, as well as the population likely to avail itself of them; and in point of fact we find, as a general rule, that those schools are very well attended,—so well, as to show that they were needed in the places where they were set down.

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With reference to the attendance of the scholars, is it generally a promiscuous attendance, as regards the religious denominations, or is it confined pretty much to the members of the Free Church?—I should say it was very promiscuous; at least the remark has frequently been made to me by the parties connected with the schools, that they were providing a school for the district generally, and not at all for the children of one denomination.

You mean that the scholars come from all denominations?—Yes.

Is the instruction conducted on the same principle as it used to be conducted in the parish schools?—I suppose so.

Is that consistent with your observation?—I have no official knowledge of the parochial schools; but I have been in the habit of hearing the masters giving instruction in religious knowledge, examining in the Bible and Shorter Catechism; and I should say it is as nearly as possible what it used to be, with this exception, that probably the masters are better trained than they were formerly.

May the children belonging to other denominations have the advantage of secular education without being obliged to learn the Catechism?—Decidedly. I do not often examine the schools in the Catechism, but I do so sometimes; and I have been stopped when putting questions, and told that these were children of Roman Catholics, and did not learn the Catechism.

Is the Bible always read in these schools?—Always.

By all the scholars?—Yes; I never heard of any objection to it.

Mr. Black.—Are the Roman Catholic children present at the examination in the Bible and Catechism?—Yes, I believe so.

The Chairman.—They are present, but are not obliged to answer questions?—Quite so.

Is the Bible used simply as a lesson-book for reading, or is it used as a basis for religious instruction?—I should say it very much depends on the character of the individual schoolmaster. Of course, in every case it is used as a means of instruction; but as to the particular way in which it is applied to the moral and religious training of the children, a good deal depends on the master.

Have you been conducting your recent inspections on the principles of the New Code?—To a certain extent. We commenced and conducted them on that footing for a considerable time, and then we got notice that the New Code was suspended, so far as the grants of money were concerned; but we were desired to conduct the examinations as if it had not been suspended.

Did you find any difficulty in carrying on the examinations under the New Code?—I found it excessively wearisome in some cases. In those cases where there is a large proportion of young children, and where you have to examine every one of fifty or sixty children, first in the mere alphabet and monosyllables, and then as to their power of writing capital letters; and, 3*d*, as to their power of ciphering, and adding and subtracting, it takes a very long time. You can hardly get over one child in less than two or three minutes.

You mean it adds much to the labour of the examination?—Yes.

Do you see any difficulty in coming to a very fair opinion as to the merits of a school by that process of examination?—I think the process may have very considerable utility in one point of view: it will secure that almost all the children have a certain small modicum of education, but it does not go far of course. The standard generally is of a humble kind, and the great benefit of it appears to me to be, that almost any child who has been two years at school will be able at least to write intelligibly, as well as to read a simple book. The reading and writing will be pretty well secured over all the school.

But there is a different standard of examination for the different classes?—The very highest does not go high; but hitherto the great proportion have been examined on the lower standards.

Then those standards will be more easily attained?—Yes, and it is in that way I say it will secure that a certain attainment will be reached by almost all the children.

Although the examinations have been conducted on that principle, the payments have not been made on that principle; but have you attended to the probable effect of the payments being made on that principle—whether the schools you have examined will get more or less under the New Code?—I have not examined that carefully, and I am afraid to express a decided opinion about it.

Have you met no decided instances in which the school would get much less

under the New Code, tested by results?—I should say decidedly so, if you take into account all the money that was given for pupil-teachers, and the training of them, as well as the money that belongs directly to the school. The obvious effect of the Revised Code will be to diminish the number of pupil-teachers, and so to diminish the expense. But with respect to many schools, I believe as much money will come to the schoolmaster as before. Dr. Cumming.

Have you noticed cases in which the schoolmaster would get more than under the present system?—I have not been able to test that myself, but I have got some information on the subject. I think it was about a month that the system was in operation before the Revised Code was suspended; and during that time it was determined how much money should be given to each school after the examination; and when the Revised Code was suspended, the Government, or the Committee of Privy Council, resolved to make up the money of those who had lost by the change to what they would have had upon the old system; and I am told, that of the schools examined during that month at least, more had gained by the new system than had lost by it.

What is your opinion, or have you any to state, with reference to the possibility of a system of common inspection,—the evidence which you have given, and which the previous witness gave, goes to show that the system of education in all the Presbyterian schools in Scotland is practically identical: how far do you think it would be possible to have a system of inspection which should not be connected with denominations?—I don't see any great difficulty in that matter. A good deal depends on the feeling of the promoters of the different schools—on the confidence they might have in the inspectors. I should have no fear myself in that matter.

You have not inspected any schools except in connexion with the Free Church?—Oh, yes; I am one of the Government inspectors for Scotland, and I have many schools remitted to me which have no connexion with the Free Church, or any Church. I have a number of subscription schools and burgh schools; for example, in the burgh of Forfar there four burgh schools, I understand; and the magistrates, to prevent its being considered an ecclesiastical arrangement, determined that I should inspect two of them, and the Established Church inspector two of them; and there are subscription schools in various parts of the country which I examine in the same way. Indeed, you will find from a letter of Mr. Lingen, at the time I was appointed, addressed to Dr. Taylor of Glasgow, that it was understood then that I should have not only the Free Church schools, but all other schools not connected with the Established Church, unless the managers of these schools wished to have the Established Church inspector. But I think the principle on which they have gone latterly is to assign it to the inspector whom the managers of the school desire, or if they express no desire, they give it to the denomination to which the Normal School belongs, where the teacher was educated.

If the system of assisting schools by denominational grants were withdrawn altogether, do you think it would be easy to have a common inspection,—I mean, if the Government grants for education in Scotland were administered on a general principle having no reference to ecclesiastical denominations, do you think it would be easy to have a common inspection?—I do not see that there should be any difficulty in that respect. I should myself have perfect confidence in my colleagues dealing quite fairly with the schools to which they were sent; but there are perhaps some parts of the country where they might not be received with the same confidence. That is a question of local feeling to a considerable extent.

The Lord Advocate.—In your inspection generally, have you found the standard rising or falling in the schools, in your long experience?—I should think it had risen till the introduction of the Revised Code, but I am afraid it will fall.

You think the tendency of the Revised Code will be to lower the standard?—Yes.

You have no experience of that?—One instance occurred to myself, and I have heard of similar instances, where the teaching of geography and grammar was discontinued in a school, because no remuneration was to be got for it. I visited one school, the master of which told me that he had not these classes.

Do you find Latin and Greek much taught in the schools?—It is not infrequent to find the teaching of a little Latin and Greek; but I have done very little in the way of examining in these subjects. I am not called on to report upon them,

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and when I did examine with reference to the pupil-teachers in particular, I found the knowledge very slight and shallow, and incorrect often.

I presume that that at all events has not been rising in quality?—No.

The Chairman.—Has it been declining?—I cannot well judge of that, because I don't know what it was in the parochial schools formerly.

The Lord Advocate.—You cannot say it has risen, and your impression is that it has been lowered?—Rather. At the same time, I have met here and there with individuals who really did remarkably well. I might mention one or two schools where I found very great success in teaching Latin and Greek. One of these was at Aberfeldy, where the master allowed me to judge of his pupil-teachers, and one or two boys along with them; and it was suggested that I might select any passage of Livy, with the assurance that they had not seen it before, and set them to write a translation of it separately. Four lads sat down and wrote translations of the passage very well, and all quite different from each other.

The Chairman.—Your objections to the New Code, so far as it goes, are not founded on the testing results, but on this, that the particular results are not included in the schedule?—I hold the Revised Code is calculated to secure that all the children of the lower classes shall receive thoroughly the most elementary education; but there is no provision under it for the higher education.

The Lord Advocate.—Do you think there are many instances in the schools at present, where a considerable proportion of the scholars do not receive that elementary instruction?—Of course, under the former system, there was always a temptation to the master to bestow more attention on the higher classes, which he himself felt more interest in teaching. He is now obliged to devote less attention to them, and to take more charge of the lower classes.

You said that Roman Catholics were not obliged to be present at religious instruction in the schools?—What I said was, that they were not required to learn the Catechism.

Is there any considerable proportion of Roman Catholics attending the Free Church schools?—I could not make any statement as to that. I should conjecture there was not, from the circumstance that my attention is not often called to it in the way I have stated. In two or three schools my attention has been called to it; that is to say, I have been directed to forbear asking questions on these subjects because the children were Roman Catholics.

Are there many Catholics in your present district?—No; but in the district which I had formerly, and which included Lord Lovat's country, there are a good number.

We have been told that the General Assembly of the Established Church issued a declaration on the subject of religious instruction, and the way of dealing with pupils not belonging to that denomination: is there anything of the same kind in the Free Church?—A statement was made, and is recorded, of a conversation which took place between Dr. Candlish, and a deputation with him, on the one hand, and the late Marquis of Lansdowne, on the other, in which that circumstance was brought out. The conversation was put in writing by Dr. Candlish, or some member of the deputation, and transmitted to the Marquis of Lansdowne for his assent to its correctness.

At the time he was President of the Council?—Yes. It is recorded in the minutes of 1847, in which "he stated that he referred to the practice, already universally prevalent in all public schools in Scotland, of allowing children to attend, without requiring them, either on week-days or Sabbath-days, to take part in the religious exercises, if their parents are unwilling that they should do so."

Practically, have the Free Church schools increased much since that date,—have there been more schools established?—I should think so; but it is a conjecture so far, because they may come under my notice at a particular time, while they have existed for years before. I can state how much they have increased under my hands. I find from the report of 1852, the first year after I was appointed, that, with the aid of Mr. Wilson, I inspected 212 schools, in which there were 123 certificated teachers; but during 1857, we inspected 336 schools, with 297 certificated masters; and since that time the number is considerably greater. The last report gives 454 schools.

The Chairman.—Then they have been continually on the increase?—Yes; they

have been very much on the increase, but perhaps very much in one way, which is the way that they come most commonly under my inspection, by keeping certificated masters. The schools might have existed before, without having certificated masters. Dr. Cumming.

The Lord Advocate.—You are speaking more of the schools under your inspection under the Privy Council regulations, than to the number of schools existing?—Yes; I don't know the number of schools existing.

Has there been any change in the age at which boys leave school?—It would be very difficult to state that without reference to the districts of the country. Far north, in Ross and Sutherland, you find boys and girls continuing at school till sixteen, seventeen, or eighteen years of age; but over the country generally they leave school much earlier.

Do you think there is anything important in that,—do they go away too soon?—They do; especially in places where they can early find employment.

In what way will the Revised Code operate to diminish the number of pupil-teachers?—Formerly, you may say, the pupil-teachers were a boon granted by Government to a school. As soon as a school had 50 scholars, Government, if satisfied with the school, allowed and paid for a pupil-teacher, and they also paid for a pupil-teacher for every 40 above the first 40 children. Now the pupil-teacher is a burden on the school; the Government don't allow it, but they require it; they say, "As soon as you have 90 scholars, you must have a pupil-teacher;" and consequently, supposing there was a school with 120 pupils, formerly the master would probably have demanded from Government three pupil-teachers, because the number of the pupils was three times 40, and the pupil-teachers were paid by Government: but now for the same 120 children, the Government require that he shall have one pupil-teacher, and if he chooses to have more, it is at the expense of the managers of the school.

The Chairman.—But it will not be a burden on him to have the one; that is still an assistance to him?—Yes; the money he should get for his pupils should enable him to bear that burden.

Mr. Cook.—Does he not get payment for the one?—No; but Government requires him to have the one. The payment of the pupil-teacher must come off the money derived from Government, as fixed by the test of the examination.

Mr. Dunlop.—At present the master gets an allowance for teaching the pupil-teacher?—Yes.

And he will lose that too?—Yes.

The Chairman.—Have you had your attention directed to a Parliamentary return, moved for by Mr. Dunlop, purporting to give a complete return of all schools in Scotland, except the adventure schools?—No; I am not sure that I have seen the return.

Mr. Smith.—Do you inspect the Normal School in Edinburgh?—I do.

Sir James Fergusson.—I think you said you consider that on the whole the Free Church schools receiving Government aid were placed in situations where they were really required, because there is a fair attendance of pupils?—Yes.

May we not take the original establishment of the Free Church schools to have been parochial?—Of course they are mostly congregational, and the congregations correspond very much with the parishes in which the ministers were found.

So that, as a rule, probably the Free Church school was placed in connexion with the church, and therefore, in most cases, was side by side with the old parish school?—That might exist to a considerable extent; but many of the congregations never supported schools at all; the members of the congregation thought there was no occasion for a school, and consequently did not erect one.

But was the footing on which the school was established rather parochial than to supply an actual want?—In many cases I daresay it was parochial, because it was partly historical in another way. At the time when the Free Church was formed as a separate body, there was a considerable number of parochial teachers who adhered to the Free Church, and it was found that from that circumstance they were incapacitated from continuing in the parish schools. The members of the Free Church found themselves bound to see that these men were not sacrificed entirely; and I daresay for their sakes schools were continued in places where they might not otherwise have been placed.

Did the Free Church not endeavour to follow the old Scotch principle of having a school in connexion with every church?—They certainly recognised that principle—that according to the old feeling of the Church of Scotland they should do

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something of that kind; and accordingly they carried that out to a considerable extent. I should like to mention that there are some places, though not many, where there are two schools, without any occasion for there being two; but it must not be inferred that these are in consequence of the erection of one by the Free Church. It may be the opposite way. At a small place called Amulree, between Aberfeldy and Crieff, there is a school connected with the Free Church, which I inspect, and where the pupils never, I think, exceeded 20, sometimes being considerably under that. I recollect once driving there on my way from Crieff, and the boy who drove me said as he had to put up the horse for an hour or two, and as he was acquainted with the master of the Established Church school, he would go in and see him. When he came out, I said I had found only 11 children in the Free Church school; he said there were 15 in the other; and these schools were separated at that time by a mutual gable; though I believe they are now nearly a quarter of a mile apart.

Mr. Cook.—What sort of school was the Established Church school?—A side school.

On the parochial establishment?—No; it was only got up after the Free Church one was established. It did not exist there before.

Sir J. Fergusson.—In the Highlands, the churches are more usually put down in distant parts of the parish than they are in the Lowlands?—I could scarcely state that. Of course, in the Highlands, I should say they are probably more in the towns than anywhere else, though there are numerous exceptions to that.

The Chairman.—In your district are there any Free Church schools not in connexion with any congregation of the Free Church?—If they are Free Church schools at all, I suppose they must be in connexion with some congregation; but there are some schools which have been promoted by Free Churchmen which are not attached to any congregation at all. There is a large school of that kind which I inspect at Sinclairtown, of which I think the majority of the managers are Free Churchmen, and they specially desired that I should be sent to inspect it; and there may be other schools where the promoters are mostly Free Churchmen, though not exclusively so.

Sir J. Fergusson.—Do you find in many cases complaints made of a condition attached by the Privy Council, that sewing shall be taught to all the female pupils?—There is no objection made to the teaching of sewing; everybody is satisfied that it ought to be taught; but the people themselves have a notion about the teaching of it, and resist the enforcing of it on their children sometimes.

Have instances been brought before your notice in which it was exceedingly difficult to provide instruction in sewing?—I believe there have been some instances where it was rather difficult to provide it, but not frequently, because if they don't get a very highly qualified person, they will get some young woman on the spot who can use her needle.

You have never known the grant withheld because sewing was not taught?—I don't recollect any such instance. I have no doubt the Government have remonstrated, and insisted that the sewing should be provided.

The Lord Advocate.—Supposing the Government grants were distributed solely on the footing of being given to the schools that were necessary for the education of the population, how many of the schools which you examine do you think would fall under that character?—I think you would find very few indeed that would be excluded from it on account of their being unnecessary. I think the attendance in the schools which I inspect is generally so large that they could not easily be dispensed with.

Lord Polwarth.—Where there are only eleven or fifteen pupils?—That was merely one case; but there, I should say, though the number is so small, the school could not well be dispensed with, because it is five miles from the nearest school.

The Lord Advocate.—Then I presume your opinion is, that before the Free Church commenced, the education of Scotland was deficient, to the full extent, or nearly so, of the additional schools that have been since erected?—I think so. I had a statement made on that subject with reference to one parish—I think Forgue, in Aberdeenshire—where, before the Disruption, there was only one parish school, attended by about seventy children, and no other in the parish, and about a twelvemonth ago there were two parish schools, two Free Church schools, and another: there were at least five schools in the parish, attended by upwards of 400 children.

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Sir J. Fergusson.—Is it within your knowledge that in many cases Free Church schools were established with Government aid, on account of the inefficient character of the old parochial schoolmaster, whom there was at that time no means of removing?—That might be the case.

Mr. Mure.—What is the rule in the Free Church schools which you inspect as regards the power of the managers to dismiss the schoolmaster for inefficiency?—That has come to be rather a legal question. One has heard of the Burrelton case, which I believe is not settled yet, but which was raised to determine whether the managers of a Free Church school have the power of dismissing the master. I should suppose that, generally speaking, they have such a power.

Do you know cases where the schoolmaster has been got quit of for inefficiency?—No, I don't recollect. Of course he might be got rid of by being starved out, if they thought proper to do so. The managers might refuse to certify that he was doing his duty efficiently, and then he would not be entitled to the Free Church fund, and without that certificate the Government would not pay him.

Have you had an opportunity of considering whether the regulations of the Privy Council as to the examination of schoolmasters have had, or are likely to have, any effect on the qualifications of the masters for teaching the higher branches?—I should say the rules made by the Committee of Council have done very much to raise the general character of the schoolmasters. Possibly formerly you might have had individual schoolmasters as high as any you can find now, but the average qualification and literary character of the schoolmaster is decidedly better than it used to be.

Have you considered whether the regulations as to examination in the Revised Code are likely to have any effect on their qualifications different from what the Old Code had?—I am not quite confident about that. You might say the tendency was almost to bring down the qualifications; that is to say, the qualifications necessary for getting a certificate are not so high as they were three years ago. There is an attempt in that way, I suppose, to escape from an evil which was arising in consequence of the somewhat high qualifications of the teachers. The best of the students passing the Normal Schools get employment in high-class schools. Possibly the Government may have some idea of making a lower qualification requisite, but one that should be sufficient for the teaching of the children in the lower schools.

But at this moment, under the New Code, could a teacher get a certificate, sufficient to enable him to teach a school supported by the Privy Council, who had passed no examination, and could pass no examination, in Latin or geometry?—I rather think so. I am not sure about the geometry, but the attainments required in that branch are of a very limited nature.

The Chairman.—But you have expressed a decided opinion that the new regulations will have an injurious effect on the children?—On the older children.

Mr. Ramsay.—Under the Revised Code, in ascertaining the sum due to a teacher in respect of the attainments of his pupils, have you any regard to the condition of the parents of the pupils?—Yes; there is a list made out of the names of all those presented for examination, and those are excluded from being of any benefit to the school whose parents are above the rank of the labouring class.

Then the intention is to give the grant for the education of the labouring classes, and these only?—Yes.

The Lord Advocate.—That is the principle of the whole Government grants?—Yes; no doubt the grants were intended, in the first place, for the education of the labouring classes.

The Chairman.—And it does not even include the education of the lower class, if that education goes beyond the very elementary stage?—No.

The Lord Advocate.—Is not that principle very much at variance with the old Scotch principle of education?—Yes; we have, properly speaking, no school between the elementary school and the University; and we have hitherto been accustomed to consider that a certain proportion of the elementary schools should be capable of training pupils to go to the Universities.

The Chairman.—Did not many of the children of labouring persons go on with Latin for the purpose of qualifying themselves for gardening and other pursuits?—Yes.

That would be ignored by the New Code?—The New Code gives no assistance for that.

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Mr. Mitchell.—And the pecuniary interest of the teacher would be against it?—Of course, his business is to make the most of those whom he presents for examination.

Sir J. Fergusson.—But, on the old Scotch system, where children were often educated so that they could pass to the University, there was no incentive except professional zeal?—Of course, if the master was at all qualified, his inclination would lead him to give the higher education; he had more interest in teaching Latin than in teaching a lower class.

That would be so now?—He must devote his attention to the younger children particularly.

What is there in the present system that discourages the teacher from preparing a number of high-class pupils, except the anxiety of bringing on all the children?—That is all.

But if that be a bar, must he not have had to neglect the lower pupils before?—I should think so.

The Chairman.—Do you think the elementary education was neglected in Scotland?—I rather think it went on more slowly. The tendency of the present system is to oblige the schoolmaster to devote a great deal of his attention to the very youngest pupils, and, if his time is limited, he must take it off the others.

The Lord Advocate.—In point of fact, do pupils go to the Universities from the Free Church schools which you have examined?—I cannot answer that question from my own knowledge.

Mr. Davidson.—The old system did not institute an examination of the higher branches?—Not in Latin or Greek; but the forms I have to fill up now are changed considerably. Formerly, I had to state how many children were learning geography, grammar, etc.; but now I have only to put in a notification of the general state of instruction in the school. I should mention that I am required to certify that the general instruction in the school is satisfactory before the master can be entitled to his remuneration for teaching the young children. There must be the general good character of the school besides.

But that refers to the kind of instruction required by the Code?—Not very particularly. I rather think, for example, that in the school where I found no grammar and no geography taught, I thought it right to insert that as a qualification of the general character which I gave of the school.

Mr. Ramsay.—Is geography not required to be taught?—No.

The Lord Advocate.—Do you find practically that it is only the children of the labouring classes who attend these schools?—O no; a great many of different ranks attend. That varies in different schools; but in many of the schools there is a considerable proportion of the children of a higher class.

I presume that the system, as administered in Scotland, is not based on the principle that these schools are for those who cannot afford to educate their children?—You cannot make separate schools for them, I suppose. In our parochial schools, and in our Free Church schools too, there is a general mingling of children of the middle classes with those of the lower classes.

Mr. Smith.—Do they pay the same fees?—They are charged the same fees. A distinction between the fees is, I think, recognised in England; but I have not heard anything of that sort in Scotland.

How are the fees fixed?—The local managers fix that, and the Government keep a check on it. They are not allowed to charge fees above a certain amount; or at least the children on account of whom these fees are charged, are not to be counted as entitling them to get anything from Government.

Mr. Cook.—The schoolmaster may charge a lower fee?—O yes.

Sir J. Fergusson.—But as a rule the only differential fee is as to education in the higher branches?—It is generally stated in this way: the child pays a higher fee as he passes from one class to another.

The Chairman.—The middle classes send their children habitually to these schools?—Yes; I should say they are exactly like the parish schools.

Lord Polwarth.—In most of the schools the schoolmaster is obliged to teach the higher branches?—Of course, in the parish schools the heritors fix that. They determine that the teacher shall teach such and such branches, and they may include Latin.

I suppose it is the same in the Free Church schools?—I am not sure how far it is required. In that case, probably the check would be in the hands of the Pres-

bytery, or those having the ecclesiastical superintendence of the schools. All students who pass from our Normal Schools have received instruction in Latin so far. Dr. Cumming.

Have they Greek enough to read the Greek Testament?—Sometimes; but I doubt whether that is very frequent.

Mr. Dunlop.—You said one effect of the Revised Code would be to lessen the number of pupil-teachers: do you look forward with much anxiety to that as diminishing the efficiency of the school?—Not much. I think as many pupil-teachers will be raised as will be sufficient to supply the demand.

Would the diminution of the present number of pupil-teachers be largely injurious to the efficiency of the schools?—Not of the present number. I think there have been rather too many pupil-teachers. There has been so many of them that a great number have gone to other schools, or other professions, than the Government ever contemplated.

Have you any knowledge of the proportion, or any facts supporting that view?—I could not venture on an exact statement on that subject.

Do you know the proportion of the candidates thrown off from the Normal Schools and the proportion of vacancies occurring to take them up?—Hitherto there has been almost always a sufficient demand for those trained in the Normal Schools; there are, however, always some that never get an appointment, but not many. At the same time, our Scottish students have a pretty large field in England. I believe a large number of those trained in Edinburgh go to the English schools.

Do they go to the Colonies at all?—I should say not. The argument was used to me by Mr. Sime, late rector of the Normal School, that the supply was not too great, because he had not been able to persuade them to go abroad.

Lord Polwarth.—If the New Code was fully carried out in the parochial and Free Church schools, would the tendency be to lower the standard of education, so as to destroy the system which existed formerly in Scotland, by which the middle-class obtained a fair education?—There might be other circumstances to counteract the tendency; but I think the tendency of the Revised Code is rather to lower the standard of education. I think it is calculated to lower the standard in the parochial schools, in so far as it was the means of training students for the University, for example.

Mr. Dunlop.—Would it tend also to encourage the taking away children from the school at an early age?—No; I should not apprehend that. I think one of the advantages of the Revised Code is that it gives an inducement to the schoolmaster to urge the attendance of the children.

After a certain age that ceases?—Yes; but he may present them six times according to the present rules. He cannot present any one twice for the same standard; but he may present a child for the first standard this year, for the second next year, and so on.

Mr. Mitchell.—Have you turned your attention to the instituting of local rates for the maintenance of schools in Scotland?—I have scarcely attended to that subject. Supposing there were a public provision to be made for a great many more schools than there are now, it might be by local rates, or by the appropriation of the same funds now employed for the support of the schools by Government. I think it is said that £70,000 is spent by the Committee of Privy Council in Scotland.

The Chairman.—What is your suggestion on that point?—It might be done either way; but if you have a local rate, you must have local management too, and it must be matter of careful consideration what that should be.

Sir J. Fergusson.—Elective management?—Of course it must in a certain way represent those who pay the rate.

The Lord Advocate.—If the Free Church schools educate scholars of all denominations, and if the Established Church schools educate scholars of all denominations, is there any advantage or meaning in Scotland of having a denominational system?—I don't know what the advantages may be. There must be some, or people would not subject themselves to the great expense of keeping up the schools.

Do you see any educational advantage from the present system?—There may be a little from the competition between the different schools.

Lord Ardmillan.—You have said that in all the schools which you inspect and in all you know of in the Established Church, the Bible is always read: is it

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your opinion that the public in Scotland would never be satisfied unless the Bible were read in the schools?—I am very well assured of that. I feel a strong conviction to that effect. You might find a considerable number of persons who would be content that it should be excluded; but to humour them you would certainly create an immense amount of ill-feeling in the other part of the population. I don't know any objection to the reading of the Bible in schools.

Is it done in all the schools you visit?—Yes. It would be a very great change in our schools if any rule were made by which the Bible should be excluded.

Mr. Mitchell.—Do you think that, on a basis of a local rate and local management, there could be a fair and comprehensive system of education raised for Scotland?—Of course it is a sort of theory, but I don't know why there should not be. It seems, if there is to be a national system at all, there must be some arrangement made by which the schools shall be managed, and that not in connexion with any one denomination more than another; and if you do that, you must have some local management, I should imagine. Of course, all schools are under some management now. Parochial schools are under the minister and the Presbytery; and the congregational Free Church schools are under the minister and elders of the Free Church, and always with a check arising from the central fund.

Lord Polwarth.—To what extent are the parochial schools under the direct management of the minister and heritors?—I am afraid that is a legal question.

The Chairman.—Don't you think there might be a considerable amount of consolidation in respect of the Normal Schools if the denominational system were given up?—I think there might. I think that would very likely rectify itself in the course of time. There will be increasing difficulty in maintaining the Normal Schools under the new system; and I daresay, unless some other alterations were made to increase the demand for teachers, one school in Glasgow and one in Edinburgh might furnish a sufficient number.

There is one point on which I think you have expressed a distinct opinion, viz., that in the event of a non-denominational system being adopted in Scotland, you would not practically get rid of many of the present schools?—You would get rid of very few.

And probably for those you did get rid of a corresponding number would have to be established?—Most likely. If there was anything like a national system, the arrangement of the schools might be considerably modified. I used to see two large schools at Uddingston, in the parish of Bothwell (though I have not been there for six years), one belonging to the Free Church and the other to the Established Church, and they are within less than a stone-cast of each other. Now, if the matter had been under national or general management, probably both schools would have been required, but they would not have been put down close to each other.

Sir J. Fergusson.—But where schools are side by side, if there was no denominational difficulty, one would be available for boys and the other for girls?—Yes, that would be one way of doing.

The Chairman.—Is there any other point which you wish to bring under the notice of the Commission?—There is the matter of the provision which ought to be made for thinly-peopled districts,—districts which may contain a large population on the whole, but that population widely spread. I used to visit two schools in the west of Ross-shire, within the bounds of the Free Church Presbytery of Lochcarron, one at Ullapool and the other at Plockton. I was there a year or two ago, and the Free Church minister at Plockton, who is also clerk of the Presbytery, told me that that Presbytery had no fewer than twenty-seven schools under their superintendence, and that in the month of March previous there were between 1600 and 1700 children attending them. Of course, these schools must have been very poorly provided; but the fact that there should have been twenty-seven schools there, while there were only two which had any connexion with Government, seemed to show that the Government scheme did not meet the wants of the population, scattered as that is. I suppose the reason why they received no aid from Government, was that they did not raise funds enough to meet the Privy Council requirements.

At one time you inspected the whole of Scotland?—Yes.

You must have had ample opportunities of observing the West Highlands?—Yes.

A vast proportion of the schools there are not of a character to meet the Privy

Council requirements at all?—I believe so; but I went only to the schools to which I was sent. Dr. Cumming.

The paucity of those to which you were sent would show that?—It showed that the Government scheme did not meet the actual demands of the country.

SIMON S. LAURIE, Esq.,—*examined.*

The Chairman.—You are Secretary of the General Assembly's Education Scheme?—Yes. Simon S. Laurie.

Will you state to the Commission what classes of schools you have duties in connexion with?—I have the superintendence of the schools in connexion with the General Assembly's scheme; I have also the inspection of the parochial schools in Aberdeen, Banff, and Moray, as visitor of the Dick Bequest trustees; I have further to collect statistics annually, having reference to all the schools connected with the Church of Scotland.

Whether supported by Privy Council grants or not?—Yes.

Your functions do not include any inspection of the parish schools except those in connexion with the Dick Bequest?—None.

Would you specify the different classes of schools which you consider to be *supported* by the Church of Scotland?—There are first the sessional schools, which are chiefly in towns; then the General Assembly's schools, supported from the central fund here; the schools of the Society for the Propagation of Christian Knowledge; the schools of the Ladies' Gaelic School Association; and finally, subscription schools established in parishes under the direction of the minister, and maintained by local subscriptions, frequently by local heritors, at his instigation.

Can you give any estimate of the total number of these schools?—I have put on this paper the total number.[1] Of sessional schools, I think there must be at least 120; of Assembly schools, 201; of course, I exclude schools existing chiefly for the purpose of teaching sewing.

These 201 are chiefly in neglected districts?—They are all in districts which require aid, and mostly in the Highlands and Islands. The Society schools are 200, excluding sewing schools; the Ladies' Gaelic schools, 30; then the subscription and endowed schools, which are in connexion with the Church of Scotland, but not all maintained by it, number 304, as nearly as I can gather, but that number is taken from a return sent in to the General Assembly's Committee in 1850.

But as to some of these schools, the Church of Scotland does not maintain them altogether?—No; it gives the whole or a fixed portion of the master's salary, the heritors or parties locally interested furnishing accommodation, and sometimes supplementing the salary.

Besides these schools, what schools do you consider to be under the superintendence and management of the Church?—The schools I have named are in *special* connexion with the Church of Scotland,[1] that is to say, they are either supported by it, or place it by their constitution under its management. But there are other schools which admit presbyterial visitation, and some of which are planted by proprietors on their own estates, to which the minister of the parish is invited, his advice being asked in the management of them. I think all these schools may be said to be under the superintendence of the Church of Scotland,—schools not deriving their revenue directly from the Church of Scotland, but from parties in connexion with the Church of Scotland, who are desirous that the minister should co-operate in the management, and that the Presbytery should visit the schools.

Is that a large class of schools?—I find, from the returns made in 1863, that in addition to the schools, the number of which I have given, 839 schools admitted presbyterial visitation, which also implies that they admit the local supervision of the minister.

Do you mean that these schools are exclusively examined by the Presbytery of the Established Church, or do you mean that the Presbytery of the Established Church are invited along with other denominations?—The Presbytery of the Established Church visit them as a Presbytery; but whether or not other Presbyteries visit them, I don't know.

[1] Appendix of Documents, A.

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Can you give us a note of the number of scholars attending these schools?—The number returned in 1863, as attending on the day of examination (which is perhaps the best test), was 190,000, allowing a fair estimate for those parishes which did not make any return at all.

What does that include?—The 190,000 refers to all the schools that have been examined by Presbyteries, including parochial schools.

Can you give us a note of the number of schools and scholars, exclusive of the parish schools?—I can furnish that note.[1]

What may be the number of the parochial schools?—It is difficult to say. I can find no means of ascertaining that accurately, but as nearly as I can calculate, it is 1057.[2]

There is one in every parish, and some are subdivided into side schools?—Yes, but I have seen it stated that in some parishes there are no parochial schools.

Have you any note of the number of schools instituted by proprietors, in connexion with the Church?—No.

Nor of the private adventure schools?—No, I have no note of them.

What is the general condition of the parochial schools, as ascertained by the returns sent in to you, in respect of accommodation, salaries of teachers, competency of teaching?—As regards accommodation, it is, on the whole, good. There is a certain class—perhaps 60 or 70 parochial schools throughout the country—which are decidedly bad, especially side schools in the Highland and Island districts; a great many of the parochial school accommodations I should call bad in these and some other localities; in other districts, 100 or 150 may be called fair, and the rest good and excellent in respect of accommodation.

Have you any means of knowing how far the recent Act, giving facilities for getting rid of bad masters, has operated satisfactorily?—To a considerable extent it has operated; a large number of teachers have been put on superannuation allowance. I have a document showing the exact number of retired schoolmasters receiving retiring allowances under the Act.

Do you know any cases where the master has been dismissed?—No.

You don't know any case where the new Act has been tested, with reference to the possibility of getting rid of a schoolmaster who refuses to resign?—No; but Her Majesty's inspectors will know such cases, because, under the Act, they are required to report upon them.

The answer you gave in regard to the general state of the parish schools referred to the school-houses; you say many of them are bad: do you give the same answer as to the salaries of the teachers?—Since 1861, I find that the average salary of a parochial schoolmaster, paid by the heritors, is about £44, and adding house and garden, I should say the average is £54. That is the average, and it excludes fees and all other emoluments.

Does that include side schools?—Yes.

What is the general condition of the non-parochial schools as to accommodation, salaries of teachers, and competency of teaching?—In very many cases, the accommodation is defective. I should characterize them as, on the whole, not above fair, except in towns.

What do you say as to the salaries?—As to non-parochial teachers who are not receiving Privy Council grants, I should say the average of their emoluments, including house-rent, fees, and everything, will not exceed £50 a year.

Lord Polwarth.—Does that refer to side schools?—No; side schools are a higher class of schools than parochial—being all under the Statute of 1861.

The Chairman.—To what extent have the Privy Council grants operated in improving the character of all these schools, and in what respects have they improved them?—To the extent to which the Privy Council has reached the schools, the regulations have materially improved the schools in respect of all the elementary branches usually taught in them,—reading, writing, and arithmetic especially.

Is it not a very limited extent that it has reached to?—Yes; the total number of certificated teachers of all denominations, is 1708; there are only 1503 elementary schools in Scotland receiving Privy Council grants, and the total number of elementary schools in Scotland must be 5400.

[1] Number of schools not parochial examined by Presbyteries of the Church of Scotland in 1863, 1537. Number of scholars attending these schools, 120,000.

[2] Including Parliamentary schools.

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But I mean as to the Established Church schools: a very small proportion of them receive Government aid?—A small proportion; of 200 Society schools, I find that only about 13 receive Government aid.

Do you consider that the regulation as to accommodation has operated severely in the outlying districts, especially in the Highlands and Islands?—Yes.

Does that affect the qualifications of the teachers?—The one tells on the other. Where the accommodation is poor, it is impossible to secure good teachers, and I daresay the teachers now holding these schools could not pass a Government examination; but if the accommodation were improved, and the salaries increased, teachers who could pass the Government examination could be had.

Could you give the Commission any information as to the number of schools receiving Government aid in certain counties representing the most scattered districts,—Inverness-shire, Ross-shire, and Argyleshire, including the whole north-west coast of Scotland?—There are the means in the Privy Council Blue-book, and in some documents which I possess, of answering that question, but I cannot do so at this moment.[1]

Have the Privy Council grants reached the great mass of parochial and non-parochial schools, and to what extent have they specially benefited poorer districts?—That is shown by the total number of schools of all denominations returned in the Blue-book, as being in receipt of aid, viz., 1503. That, set against the number of schools in the country (already given) shows how far the system has extended.

But as to geographical distribution, does it not practically exclude the whole north-west coast of Scotland?—I should say it has almost done so, including the Western and northern isles.[1]

Can you inform the Commission what subjects are taught in the parochial and in the non-parochial schools?—In all the Church of Scotland's schools, the Bible, the Mother's Catechism, the Shorter Catechism, Reading, Writing, Arithmetic, Geography, and Grammar are taught, I may say, universally; and History, Mensuration, Book-keeping, Geometry, Algebra, Latin, Greek, French, German, Music from notation, and Drawing, are taught partially.

To what extent is Latin still taught in parochial schools?—4·7 or 4½ per cent. of the pupils in the parochial schools, learn Latin; and 2½ per cent. in the non-parochial schools.

Are you aware whether the number of scholars who learn Latin is an increasing or decreasing quantity?—It is generally said to be a decreasing quantity, but I cannot speak as to that. I could ascertain it, however.[1]

Will you send to the Commission any information which you can give them on that point?—Yes. (I find that from 6 to 7 per cent. were learning Latin in the parochial schools in 1836. I cannot go further back with certainty.) I should like to mention that in Aberdeen, Banff, and Moray, where the Dick Bequest Endowment is in operation, and where the old parochial school system of Scotland is most fully developed and carried out, the number learning Latin is considerably larger than what I have stated. The number learning Latin in these three counties is nearly 7 per cent., Greek above 1½ per cent., and mathematics 4½ per cent.

Has not the bursary system in Aberdeen University had a considerable effect on that?—Yes, it has told very materially in directing the attention of schoolmasters to these subjects, to fit the pupils for passing the University entrance examination. In all the best parochial schools there is a Latin class, one or two or three of the scholars in which purpose competing for a bursary.

Have you any connexion with the Normal Schools?—I have the supervision of the Normal Schools in connexion with the Church of Scotland.

Do you consider them efficient?—Generally they are in a very efficient state, as is shown by the result of the Government examination every year.

Mr. Smith.—Can you give us the numbers who passed at last examination?—Practically every student passed at last examination, though there may have been a few who did not, these being Gaelic-speaking students.

The Chairman.—Don't you find great difficulty in providing efficient teachers for the Gaelic portions of the country?—Yes.

There is no special provision for that in any of the Normal Schools, is there?—Yes, both in the Edinburgh Castle Terrace Normal School and the Normal School in Glasgow, it has been for a long time the habit to admit a certain number of

[1] Appendix of Documents, B.

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Gaelic-speaking students on what is called the free list. We provide them with education gratuitously, and allow them £20 a year as a bursary. An examination is held, and those only are admitted who are supposed to be already sufficiently educated to benefit by the instruction.

How many take advantage of that?—Formerly there used to be about twenty per annum, but we have reduced the number lately, in consequence of the reduction of our own income as drawn from the Privy Council, and also in consequence of the smaller number of applicants. From these two causes we have now only ten Gaelic-speaking students per annum in training.

To what do you attribute the smaller number of applicants?—I don't know, unless it be that the greater facility of intercourse with the south enables young men of some ambition to find better occupation than preparation for holding an Assembly school.

That would tell with reference to all schoolmasters, I suppose?—Yes, it ought to tell as to all Gaelic-speaking schoolmasters.

Mr. Ramsay.—Is there not the inducement, that all Gaelic-speaking schoolmasters who can pass an examination get £5 per annum additional from Government?—Yes, but that is practically withdrawn.

Under the Revised Code?—No, under the Old Code.

Was it withdrawn prior to last year?—Yes; in some cases, I am told, it has been paid, though I don't understand on what principle; but for two or three years it has been practically withdrawn.

The Chairman.—Where did the £5 come from?—The Privy Council.

Was it given to every schoolmaster who passed an examination in Gaelic at the Normal School?—Not as a student, but afterwards as a teacher of a Gaelic school.

Was there any Minute of Council withdrawing it?—No, but as a matter of fact it is practically withdrawn.

Have you anything else to state to the Commission?—With reference to the general facts as to education in the country, I don't think I have anything additional to state. I have printed the figures which I have mentioned to the Commission, classified under different heads, and I lay that document on the table.[1]

The Lord Advocate.—Putting aside the parish schools altogether, can you inform us how many schools which receive Privy Council grants are maintained by the General Assembly's Committee, and the number of scholars?—Those maintained by the General Assembly's Committee, which receive the Government grant, are only 100.

How many scholars do these provide for?—I don't think we can calculate the average of the scholars at more than seventy in each.

The Chairman.—What is the average sum the General Assembly gives to each of its masters?—£22, 10s. a year, on condition that accommodations be provided by proprietors in the neighbourhood, and that a croft of two or three acres be also furnished.

Is there any scale of accommodation laid down by the General Assembly?—No, not specifically.

No particular description of house is required?—No; it is understood to be reported as generally comfortable and adequate; and I am instructed to visit and see that it is suited for the purposes of education.

Lord Ardmillan.—On what data do you proceed in saying that there is presbyterial visitation of 839 schools,—what do you mean by the presbyterial visitation of these schools?—I mean that the Presbyteries of the Church of Scotland are invited to inspect them annually, and that they do so.

Are they invited to inspect these schools as schools in connexion with the Church of Scotland, or are they only invited for the purpose of giving a certificate of the number of the scholars?—I am not aware that they are invited to inspect them as in connexion with the Church of Scotland; I have no materials for answering that question.

If the schoolmaster has a good school, he will be glad to get it inspected by a Presbytery of the Church of Scotland, but that does not imply that these are schools in connexion with the Church of Scotland?—No; I have separately specified those which are known to be in special connexion.

In short, these are adventure or subscription schools?—Some are adventure schools, some subscription schools, and some public works schools. I have separately specified those which are *known to be* in connexion with the Church of

[1] Appendix of Documents, A.

Scotland, and I have added those over and above which admit presbyterial visitation. Simon S. Laurie.

Mr. Cook.—Do you hold parish schools to be in special connexion with the Church of Scotland?—Yes, I put them down separately at 1057.

The Chairman.—Would you state how the Presbyteries do inspect the schools?—At a meeting of Presbytery those present appoint sub-committees of their number who are directed to examine certain schools in districts most convenient for these sub-committees; each sub-committee may take three or four schools, or even more. After arranging with the master they appoint a day for the examination, the scholars are collected on that day, and the Presbytery spend the day in the school.

Three or four clergymen, forming the committee of the Presbytery, go to the school and examine the scholars?—Yes.

Do you think these examinations are effective generally?—I think they are of great value. I don't think them very effective as testing the accuracy and amount of instruction given in the school, but they have a powerful effect in another way: the fact that the Presbytery is expected once a year tends to stimulate the efforts of the schoolmaster and the children, and it has also an influence on the parents.

Does the Presbytery not sometimes select one of their number who, from his recent occupation in teaching or otherwise, has some special gift for examining scholars?—I am not aware that they are regulated by that. In fact, the services of most of the members of Presbytery are required for the work every year.

Sir J. Fergusson.—The minister of the parish is always one of the committee?—Yes.

And is it very rare indeed that there is any expression of censure as to the condition of the school?—Very rare.

In fact, almost universally the result of the examination is approval?—The result is generally approval; but the returns sent to me indicate where there is any marked deficiency or any marked excellence.

The Chairman.—Do the Presbyteries report the result to the General Assembly?—Yes; the results from each parish are sent to the Presbytery clerk, who embodies these results in a schedule which I send to him; these schedules are returned to me, I abstract them further, and publish every year a report on the schools so examined, and the remarks made on them.[1]

Do these papers give you the idea that the examinations are efficient and stringent examinations?—I should not say it is an efficient examination, but it is a salutary examination.

Are there any considerable proportion of them which point out deficiencies on the part of the masters?—Not special deficiencies, but they show whether the school is below average, above average, or average.

The Lord Advocate.—The statement which you have handed in does not bring out the amount of the staff which the General Assembly maintain, apart altogether from the parochial system, and perhaps you could revise it so as to bring out that. For instance, I find in your second table that you include the salaries and retiring allowances by the heritors under the Act of 1861, £46,220.—That is simply given for the information of the Commission.

Then, again, it includes £15,000, "returned to the Assembly's Committee in 1850 as expended parochially:" is that entirely on General Assembly schools or on parochial schools?—It is entirely on non-parochial schools.

Entirely on non-parochial schools included in the list above?—Yes.

Then you put the Assembly schools at 201, but you say that of these only 100 receive the Government grant; I think it would be as well to include in your return how many receive the Government grant.—I can do so.[2]

The Chairman.—You have said you give £22 a year to the teachers of your Assembly schools: is that the maximum which you give to any?—No, £30 is the highest salary we give, but that only in one instance; £25 is the usual salary; sometimes we give £20, and as low as £15. There are cases in Lowland districts where the salary is supplemented to the extent of only £10; but taking them overhead, £22, 10s. is the average, excluding female schools.

There are cases in the Highlands where proprietors subscribe for the support of a school, and the General Assembly gives £10 or £12 additional?—Yes.

Besides the accommodation which the proprietor gives?—Yes.

There are several such cases?—Yes; and in all cases where Assembly schools

[1] (A copy of the Presbyterial Report for 1863 was given.)

[2] Appendix of Documents, C.

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are planted, the proprietor gives a croft, and very often fuel. If he does not give a croft and fuel, he gives £5 in lieu of them.

Mr. Smith.—I suppose there are many demands which the committee don't agree to?—Yes; because the proposed school is too near the parochial school, or the accommodation is not good, or we have not the money. They don't comply with our rules.

The Chairman.—How far must they be from a parish school?—Three miles.

You have not the same rule as to distance from a Free Church school?—No.

You take no cognizance of them?—No; as a general rule all the Assembly schools are of old institution, and we add scarcely any to the number from year to year.

Mr. Smith.—When did the Assembly School Scheme begin?—In 1825.

The Chairman.—You have no difficulty in getting rid of inefficient teachers; you can withdraw the allowance?—Yes.

The Lord Advocate.—In your statement you say: "Total number of certificated teachers in Scotland, of all classes and denominations, 1708, representing 1523 schools. Of these schools, 905 are connected with the Church of Scotland." You have already said that on the General Assembly's Scheme only 100 receive the Government grant; but this reads as if 905 schools were maintained more or less by the Church of Scotland, and received the Government grant. In revising this you should specify the number of schools maintained by the Church of Scotland, and the amount of grants they receive from Government, apart from the parochial system?—It is impossible to state the number of schools maintained by the Church of Scotland exactly.

Mr. Mure.—In the appendix to the report to the General Assembly in 1863, I find two schemes stated, giving the schoolmasters' names and the sums contributed: are those the schools separate from parochial schools that the General Assembly's Committee maintain?—Yes.

Do these include all others besides the parochial schools?—No; that only includes a portion of the non-parochial schools in connexion with the Church of Scotland—the Assembly schools proper. The designation, "Assembly schools" is not co-extensive with "Church of Scotland schools."

Mr. Cook.—Are there any schools that the Church gives aid to in money except General Assembly schools?—Not from the central fund here; but it directly supports them locally from collections.

Mr. Ramsay.—Have you any charge of the schools of the Society for Propagating Christian Knowledge?—No.

Nor the Ladies' Society?—No.

Your charge is confined to the 201 General Assembly's schools?—Yes; but I receive information as to the others, as secretary of the General Assembly's committee, and I have charge of the Dick bequest schools, as visitor.

Do you find any of the parochial schools in these three counties in an inefficient state?—There are a certain number which are not in connexion with the Dick bequest trustees, because the masters have not passed their examination, and I do not visit these schools. It may be presumed that they are not so efficient as the others. I should think that there are not above six or seven out of the 130 that I inspect, which I should call bad or indifferent schools.

How many parish schools are there in these three counties?—153.

Then there are 20 schools not receiving any benefit from the Dick bequest?—Yes.

In consequence of the teachers being less efficient?—No; but in consequence of their not having passed the Dick bequest examination, which is a pretty severe one. They may be efficient teachers.

The Chairman.—You think that bequest has had a very valuable effect in regard to the education of these counties?—Yes; very valuable. It has caused increased attention to the higher branches, and also to the elementary branches.

Has your attention been directed to the Ferguson bequest?—No; I know nothing of its operation.

Mr. Cook.—Are there more teachers than one in the schools receiving aid from the Dick bequest?—No; sometimes under the Act of 1861, a female teacher has been appointed to teach sewing, but there is not more than one male teacher under the Act.

It is not part of your place to require an assistant to the schoolmaster?—In that case, he appoints and pays his own assistant.

The Chairman.—How is the Dick bequest distributed?—In the first place, the

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amount to be paid to each teacher is determined by the number of his scholars, the branches he teaches, and the salary paid to him by the heritors.

Is it calculated at all by individual examination of scholars, on the principle of the New Code?—Having fixed the sum to be paid to the teacher, the Trustees send me down to inspect the school, and according to my report the teacher is allowed so many marks. Suppose 700 marks have been allowed to him under the head of attendance, salary, number of branches taught, the inspector's business is to add to these marks according to the merit displayed in teaching, or to take from them according to the inefficiency he may find.

Then it is something on the principle of the New Code?—It is.

Is it difficult to work upon the individual examination of the scholars?—The scholars are not examined individually; but in classes. The system has not been difficult to work, and has been successful in its results.

It is not confined to elementary instruction?—No.

So that there is the same premium given to the master to educate in the higher branches as in the lower?—Yes; a larger premium. He is allowed a certain number of marks for teaching the higher branches, and if these are well taught his marks are further increased.

To that, I suppose, you attribute principally the larger proportion of Latin students in these counties?—Yes; the Dick bequest has encouraged that, and the Aberdeen bursaries have done good. The salaries attached to these schools are so good, that University graduates and licentiates of the Church become teachers of them, and they are desirous to form classes, and to give instruction in the subjects which they themselves know.

What is the average salary they have from all sources?—I should think the average must be £150.

Lord Ardmillan.—Including fees?—Yes, and value of houses.

The Lord Advocate.—Do you find that in consequence of these incentives to teach the students the higher branches, the lower branches are neglected?—Not in the Dick bequest district.

Is there more teaching power in these schools than in the parish schools generally?—Not more.

So that you think it quite possible to combine thorough instruction in the elementary branches, with instruction in the higher branches, under one teacher?—Yes; it is possible, but it is a very considerable strain on the teacher. It requires a pretty highly educated man to do it,—a man of more than average vigour of mind.

Then you think it is in consequence of the higher salaries that you get better men, who are able to do it?—Yes; solely.

Mr. Black.—You said that the excellence of those schools arose from the capabilities of the teachers, they being licentiates probably of the Church: do you consider that licentiates of the Church are as good as, or better than, the certificated teachers under the Minutes of Council?—I think they are very much better.

Mr. Smith.—Have you studied the Revised Code as applicable to schools generally?—Yes.

Do you think there is any difficulty in working the Revised Code, so far as the examination is concerned?—Not in the least; so far as the examination of the scholars is concerned.

Do you think that the application of it to the schools would diminish or increase the emoluments of the teachers?—I think that, not taking the money paid by the Privy Council to Scotland as a whole, but taking individual schools, it would reduce to some extent the payments made by Government to these schools, and in remote localities, such as the Highlands and Islands, it would seriously reduce it.

The Chairman.—Do you think that in the Highlands and Islands elementary education is very much neglected, because your opinion must be founded on that?—No; it is founded on the average attendance of the scholars. In consequence of the Highlands being so much cut up by moorland and loch, it is impossible to have so large a population, where yet schools are necessary; so that a teacher who receives £20 a year from Government for thirty pupils, would under the Revised Code receive £6 or £7.

Do you think that by stimulating the master you could get a more close attendance than exists at present?—Yes; I think the master has some power.

So far as it goes, the New Code would be of use?—Yes.

But don't you think that in districts in the Highlands and Islands, the attendance of the children is practically quite independent of the master, and that he

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has very often to complain of the irregularity of the attendance of the children, from their parents taking them away to potato-digging, etc. ?—That is true ; but while he complains, I don't think he exerts himself to secure more regular attendance.

Mr. Ramsay.—When you have a good teacher in these districts, does he not secure a good attendance ?—The better the teacher, the better the attendance.

Mr. Smith.—But the application of the Revised Code is not with reference to attendance generally, but with reference to the attendance on a particular day ? —The effect of the Revised Code on the financial arrangements of the school will be very bad indeed, so far as the reduction of grants is concerned ; but the possibility of applying it to the examination of the schools there is no question about. It would be excellent in its effects and easy in its working.

Do you think it a more effectual mode of examining the schools than the present system ?—A much better mode.

The Chairman.—Do you think it will have any discouraging effect on the higher branches, in consequence of the increased premium which it gives to schoolmasters to bestow more attention on the lower ones ?—I think it would have that tendency, by inducing him to devote more time to elementary subjects.

But are not these the subjects which it is professed to teach the great majority of scholars in these schools ?—Yes ; reading, writing, and arithmetic, with the addition of geography and history. It may be desirable that more attention should be turned to these subjects than has hitherto been common.

Mr. Smith.—What will be the effect of the Revised Code on the Normal Schools ?—The effect of the Revised Code on the Normal Schools in Edinburgh and Glasgow is to throw 25 per cent. of the whole expenditure of these schools on the parties connected with them, and to make it very doubtful whether the remaining 75 per cent., which is the maximum that Government are to give, will ever be received.

How ?—Because the payments henceforth are to be made, not for the number of students passing the examination at the end of the year, but for the number of students who, having passed the examination, take elementary schools, and stay in them two years, till they obtain their certificate.

So that the managers of the school lose upon those who go to other professions or die in the meantime ?—Yes ; and so the 75 per cent. may never be paid, but some sum less than that ; how much, it is impossible to foresee.

The Lord Advocate.—Do you think, if that were the case, the General Assembly would maintain, or cease to maintain, the Normal Schools ?—It would be a question as to the amount of economy they could introduce into the establishments. My impression is, they would cease to maintain one Normal School at least, if not both.

The Chairman.—Have you any opinion as to the possibility of administering education in Scotland on the non-denominational principle,—I mean, whether public money could be administered to schools with reference to the wants of localities, and not with reference to the exertions of different bodies ?—I think such administration is quite possible, but I have no opinion as regards the details.

As regards the religious element, you don't think there would be any difficulty ?—There is no difficulty at present as regards the religious element, so far as the application of Government money is concerned. The religion which is to be taught in the school is recognised by the Privy Council, on the one hand, and the school-managers and people on the other.

In all the schools connected with all the Churches in Scotland, practically the same kind of religious instruction is given, and the same liberality in dealing with dissentients is adopted ; therefore there appears to be practically, as regards the *scholars*, no difficulty in adopting the common school in Scotland,—is that your opinion ?—Yes.

Is it not your experience that all the schools connected with the General Assembly are, practically, attended by children of other denominations ?—Yes.

Freely and without difficulty ?—Yes.

Including Roman Catholics ?—Yes ; and the practice has been, both in parochial and General Assembly schools, to allow children whose parents object to any special instruction in the Catechism, to be withdrawn from it ; and the General Assembly's Committee have a minute, many years old, directing the teacher to allow the children so to be withdrawn.

Then what is the necessity for adopting the denominational system as the basis

of the distribution of public money?—If the public money could be administered without affecting the question of school management, there is no other denominational difficulty. Simon S. Laurie.

Would it not be possible to have the schools managed by a local committee of ratepayers; and, practically, would not the result be that the education would be precisely what it is now?—Under proper precautions, the education would be, practically, exactly what it is now, under a committee of ratepayers; and it is quite possible to manage it under such a committee; but I don't wish to be understood to say that a committee of ratepayers would be a good mode of management.

My question was limited to this: whether you did not think they would administer religious education very much as it is administered?—*In the meantime* they would.

The Lord Advocate.—What is your opinion as to the effect of the presbyterial superintendence,—do you think it is efficient?—I don't think it is efficient for all purposes. Its efficiency is limited, and I think it would require to be supplemented by some other direct professional superintendence.

What would you suggest as to that?—I would suggest that all schools whatsoever should be put under Government inspection.

The Chairman.—And that the distribution of money to the schools should depend in some way on the examination?—Yes; it being arranged that the money paid shall not be so much dependent on the results of the examination as it is under the Revised Code.

Do you think the distribution of the Dick bequest a good model for the distribution of public money, that being a model under which a large sum is administered with the best effect?—Yes; I think that would be a good model in the main; but there might be modifications necessary in the working.

Sir J. Fergusson.—Do you think that insisting on a certificate from the certificated master, as a condition of Government assistance, operates unfairly in many instances?—It may operate unfairly in some instances, in this way, that schools cannot obtain the benefit of the grant which have uncertificated masters, even though they are good teachers; but, looking at the question as affecting the country generally, I should say that no school ought to receive Government money which is not taught by a master holding some sort of certificate.

But does the certificate required under the Privy Council rules not exclude in many cases very excellent schools from Government assistance, because the master is not able to pass that precise examination?—In some cases it does, but not so much as in England.

Has it not also had this result, that schools have been set side by side, and in opposition to the parish schools, by means of the Government grant obtained through a certificated teacher?—Of course, schools have been set up in opposition to the parish schools in consequence of the expectation that Government aid would be received in support of them, and frequently where these schools were perhaps not necessary.

But what I mean is: supposing there is a good parish school of the old stamp, the master of which is not able to pass the required examination, has there not often been a school set up in opposition to him, which is able to meet the requirements of the Privy Council by a small local subscription and a certificated teacher?—I am not aware of any such cases, but I have heard of them.

In the case of Free Church schools that often happens?—Yes, in a good many cases.

If the public funds had been administered in the same manner as the Dick bequest, there would have been a fair share of the public money given to each school in proportion to its results?—Yes.

Mr. Dunlop.—Under the Dick bequest, you require the teachers to pass an examination, which is equivalent to getting the certificate of Government?—Yes, a much higher examination; in fact, graduates from Aberdeen are frequently cast in the examination.

And you don't give a grant to the school unless they have passed that?—No.

Mr. Ramsay.—Have you known cases where Free Church or other schools have been set down close to the General Assembly or parochial schools, on account of the inefficiency of the General Assembly or parochial teacher?—I have heard of such instances, but I cannot mention any of them at present.

Mr. Mitchell.—What is the average sum paid by the Dick bequest?—The

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average sum is £22, in addition to the other emoluments: but, in consequence of the mode of administering the fund, the sum is a sliding sum. One teacher may get £70, and another may get £5, or nothing.

The Chairman.—Do you know of any case in which a really good master, worth anything, would fail to pass the examination for the Government certificate?—No; there may be in the adventure schools, but in the others I don't know any good master, worth anything, who would fail to pass.

Mr. Davidson.—You stated that in some parts of Scotland there were some schools in which Roman Catholics attended as well as Presbyterians, and where the education was the same, except where the Roman Catholic children chose to leave at a certain part of the religious instruction: can you give us the number of the schools in which there are Catholics?—No.

Mr. Cook.—You stated that you thought it desirable in all cases to have Government inspection of the schools. Do you think that should be combined with presbyterial visitation?—Yes.

The Chairman.—You mean to intimate a general opinion that the religious bodies of the country should take an active part in the examination of the schools?—I do.

You don't mean that the Established Presbyteries only should do so?—Yes; my opinion has reference simply to the operations of the Established Church in regard to Established Church schools.

It would be possible, where schools were not denominational, to have presbyterial examinations by different Presbyteries on certain days?—Quite possible.

Mr. Cook.—But that would be denominational?—Of course.

The examination of the Established Church schools would be by the Presbytery of the Established Church, and the examination of Free Church schools by the Presbytery of the Free Church?—Yes, if the denominational system continued.

Do you think any other system of examination by Presbyteries would be satisfactory to the country?—That is a question I cannot answer, because I cannot represent the opinion of different parties.

Mr. Dunlop.—I think it is rather for the moral than for the educational advantages that you wish presbyterial examinations?—Yes; the parents like to see the minister taking an interest in the progress of their children, and the reciprocation of friendly offices between teachers and ministers has a very beneficent effect.

Mr. Smith.—It has also an effect on the teacher in conducting the school?—Yes, because he looks forward to the examination, and is aware that he must make some appearance that will pass muster; to that extent it operates as a stimulus.

Mr. Ramsay.—Suppose there were a parish school in which a Free Church teacher was appointed, would it offend the parents if the Free Church Presbytery were asked to examine that school?—If they were invited by the parish schoolmaster, I don't think they would take offence. There would be nothing in the mode of conducting the Free Church presbyterial visitation which should give offence.

Is it your understanding that the Presbytery have a power of control over the parish teachers, and supposing them not to be satisfied with his mode of teaching, to direct him to change it?—The extent to which that power was affected by the Act of 1861 is not clearly understood. I think they have considerable power, if they choose to exercise it.

The Chairman.—Before that Act was passed, they had considerable power in connexion with the heritors?—Yes, the heritors prescribed the subjects on which the teacher was to be examined before he was admitted; but after he was admitted I am not aware that the heritors exercised any influence on the subjects taught.

Mr. Cook.—The heritors prescribe the branches of instruction under the Act of Geo. III.; that is not altered?—No.

Nor is the power of visitation by the Presbytery altered?—No.

WILLIAM GRAY, Esq.,—*examined.*

W. Gray.

The Chairman.—You are secretary of the Free Church of Scotland Education Scheme?—Yes.

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Can you state the number of schools supported by that scheme now?—There are 589 supported by the Education Committee.

And the number of scholars?—61,000.

How many of these schools receive aid from Government?—I cannot exactly answer that question. The number may be between 300 and 400.

Considerably more than half?—More than half.

What has been the object of the General Assembly in that scheme as regards the distribution of schools,—has it been their aim to have a school in every parish?—It was left to each congregation to consider and determine, with the sanction of the Presbytery of the bounds, whether a school was necessary in the locality. The General Assembly authorized the raising of a fund to aid such congregations as thought proper to erect schools in their respective localities.

But has the operation of the central committee been to stimulate congregations to erect schools in connexion with themselves?—They have been encouraging them by giving them grants out of the general fund.

Has it not been part of the object of the committee to have a school in connexion with every congregation?—The committee have only the administration of the fund authorized by the General Assembly to be raised for the purpose of aiding congregations in instituting and maintaining schools where the local parties considered them necessary.

Does the central committee do nothing but receive applications from congregations or from individuals for the support of schools,—have they no operation in stimulating the demand on the part of localities?—Yes, they advise and co-operate with them.

Have they been at all guided in the selection of sites for schools by the wants of the population,—by the pre-existing distribution of schools?—I am not aware that the committee had anything to do with it.

They left it entirely to the local parties?—Yes, with the sanction of the Presbytery of the bounds.

They did not issue a direction that the schools should be erected in destitute places?—They left it entirely to the local parties and the Presbytery; and of course it was the understanding that the school was to be placed where education was needed.

What do you require to be certified before you give a grant from the central fund?—I have here a schedule showing what the committee require to be satisfied about.

Is the existence or non-existence of a neighbouring school an item in that schedule?—There is a question in the schedule to this effect, Enumerate the schools existing in the district, how maintained, and how attended, and the distance of each from the school for which the salary is sought.

On that schedule being satisfactorily answered, you give grants?—Yes, if the Presbytery approves.

In what proportion to the local contributions?—Each case is decided on its own merits; the committee have certain rates of grants, ranging from £15 to £60, and smaller allowances from £5 to £10.

Have you not some schools, especially in the Highlands and Islands, which are not strictly connected with any congregation at all,—I mean schools in parishes where there is no regular Free Church congregation?—There is a class of schools, virtually in connexion with the Free Church, but not under the superintendence of our committee.

Does no school come under the superintendence of your committee except schools connected with some congregation?—No.

Is there any other committee beside yours which takes care of those schools which are not assisted by you?—I believe there are two or three societies which support schools in the Highlands.

Do you refer to the Ladies' Society?—Yes, the Ladies' Societies.

And they get no assistance from you?—Not from the Education Committee.

Is there any other fund belonging to the Free Church which gives assistance to these parties?—Not directly in connexion with the Free Church; but the societies, I understand, consist of persons who are in connexion with the Free Church.

With reference to the attendance at your schools, is that exclusively denominational or not?—I have here a report, which I hand in, made to the Commission of the General Assembly in 1855, giving these figures: Number of children belonging to various denominations attending 568 Free Church Schools, viz., Free Church, 31,999; Established Church, 10,054; Roman Catholic, 614; all others, 9,223.

W. Gray.

Have you no return similar to that of a later date than 1855?—No.

Why,—have you given up making inquiry on that subject?—This was a special return, and nothing of the kind has been called for since.

Have you any reason to suppose that there has been any change in the distribution of the attendance as regards the denominations?—I am not aware. I believe the proportion is very much the same as is represented here.

With reference to the Roman Catholics, have you issued the same directions to your teachers as have been issued to the teachers of the Established Church, that they shall give them the benefit of secular education without insisting upon their going through the Shorter Catechism?—Yes.

That has been formally issued as an instruction to your teachers?—That is the instruction to them.

The Roman Catholic children are present when the religious instruction is given, but they are not required to answer questions on that subject?—They are not; they may go out if their parents or guardians object.

The Lord Advocate.—Can you give me a note of the amount expended by the Free Church committee annually on the schools?—I can. It is as follows:—

Year ending 31st March				Year ending 31st March			
1843-44,	£3,536	9	10	1854-55,	£11,218	12	10
1844-45,	3,971	17	6	1855-56,	11,086	18	3
1845-46,	7,654	16	0	1856-57,	11,285	16	11
1846-47,	10,073	15	11	1857-58,	14,123	4	0
1847-48,	10,258	3	1	1858-59,	12,270	11	11
1848-49,	11,029	18	8	1859-60,	11,216	19	0
1849-50,	11,196	15	5	1860-61,	12,261	11	4
1850-51,	12,583	7	2	1861-62,	10,873	4	9
1851-52,	11,357	4	4	1862-63,	11,287	13	2
1852-53,	11,582	3	2	1863-64,	11,325	0	7
1853-54,	11,035	8	11				

And the aggregate amount received from the Government?—I can furnish that. In the Report of the Committee of Privy Council on Education, 1863-64, p. lxxi., the sum represented as given to the Free Church of Scotland for the year ended 31st Dec. 1863, is £39,897, 13s. 0d., and from the beginning, £362,675, 7s. 8d.

The Chairman.—What is the average salary which your teachers receive from the committee?—What the committee gives is a grant in supplement to the local salary, and the grant ranges from £15 to £60.

You consider the poverty of the locality in some instances, I suppose?—Yes.

You give a larger grant in some cases where there is a very small local subscription?—Yes.

Mr. Ramsay.—You give a larger amount, do you not, to the teachers who were ejected at the Disruption?—Yes.

What does each of them receive, or do they all receive the same?—The ejected parochial teachers get at the rate of £30; the Assembly teachers, £20; the teachers ejected by the Society for Propagating Christian Knowledge, £15.

Mr. Smith.—Were there many of them?—About 120.

The Chairman.—What system of inspection have you for those schools which receive no aid from the Government grant?—They are all under the inspection of the Presbytery of the bounds.

But no other?—No:

You have no official inspectors for these schools?—No; we once had, but not now.

Mr. Smith.—Do the Presbyteries report to your committee the result of their examinations?—Yes, annually.

The Chairman.—Have you ever withdrawn your grant from any school on account of the inefficiency of the teacher as reported by a Presbytery?—I am not aware of that having been done on the ground merely of inefficiency.

How do you get rid of bad and inefficient masters?—They are all so good, it is seldom we have any inefficient.

Mr. Davidson.—You don't know any case where mere inefficiency has been a reason for removal?—I am not aware of any.

Mr. Smith.—You have no printed reports of the presbyterial examination of your schools?—No.

Mr. Ramsay.—When there is a change of teacher, are you made acquainted

with the circumstances under which the change takes place?—Yes; the congregation applies to us for a renewal of the grant, if they had a grant. W. Gray.

Have no cases come under your notice in which teachers have been removed for inefficiency?—I am not aware of any.

Mr. Smith.—Who appoints the teacher?—The local school managers.

Is there any examination with reference to his qualifications before he is appointed?— Yes, he appears before the Presbytery for examination and admission.

And they give him a certificate?—Yes.

It is a presbyterial examination he undergoes first?—Yes.

And then he is appointed?—His appointment by the school managers is confirmed according to certain regulations.

Sir J. Fergusson.—I suppose the Free Church schoolmasters are comparatively young men, having been appointed at a recent period?—They are so, with the exception of the ejected teachers.

The Lord Advocate.—There are only 589 schools just now on the fund, and there appears to have been 560 in 1855: have many additions been made in recent years?—Very few; in some cases side schools have been given up, and new schools have been instituted, but the number has been very much the same for the last few years.

In taking a school upon the fund, you trust to a great extent to the answers made to the schedule you have handed in?—Together with a minute of the Presbytery of the bounds.

Has this schedule to be sent to the Presbytery?—Yes.

As answered?—Yes.

And then they report to your committee?—Yes.

Have you any means of judging whether, if your funds were greater, you could usefully extend your Free Church schools in the Highlands?—There is no doubt of it.

You think there is great want of schools there?—Yes.

Mr. Smith.—Have you many applications from these districts for schools?—A considerable number.

Which you are unable to comply with?—Yes.

The Lord Advocate.—Have you the means of telling us how many applications you have had from the remoter districts that you have not been able to comply with?—I have not the means.

There are no permanent educational endowments connected with your committee?—There is a sum of £7000; that is all.

The Chairman.—Was that a bequest?—Yes, by the late Mr. M'Laren of Callander.

Lord Ardmillan.—You mean a principal sum of £7000?—Yes. I have a paper here, dated 1855, showing the origin of the scheme, its progress, and the extent to which it has been enabled to take advantage of Government aid. I should like to hand in that paper; and I have also a paper showing the reasons for the Education Scheme. I hand in these papers.

The Lord Advocate.—These papers were not prepared by you?—No; they were laid before the General Assembly by the Education Committee.

Lord Ardmillan.—Are the buildings in connexion with the Free Church schools generally substantial?—I believe so.

A considerable sum of money has been expended in erecting them?—Upwards of £200,000.

The Chairman.—A great part of that was locally contributed?—The greater part of it.

Mr. Dunlop.—Had you a school-building fund distinct from that fund which you distribute annually?—We had, but we have not now.

What was the total amount raised by your committee by which you supplemented local efforts?—About £40,000.

Lord Ardmillan.—Have you anything in your office, in a tabular form, showing the expenditure on the buildings, and the annual income and expenditure?—I have here a tabular statement which was prepared by the convener of the Finance Committee in 1860, showing the contributions to all the funds and schemes of the Church. I hand it in (marked D).

Mr. Smith.—Including the school fund and the building fund?—Yes.

The Chairman.—Is there any other statement which you wish to make to the Commission?—There is one thing which I should like to refer to, mentioned in the report of Mr. Middleton, one of H. M. Inspectors of the Schools in connexion with the Establishment, with reference to the Free Church Schools. It is men-

W. Gray. tioned in the Government Report of 1862-3, p. 156 :—"Heritors are not, and cannot be reasonably expected to be, zealous to give capital premises to an incapable teacher. An efficient and popular teacher has seldom long cause of complaint. He is silently the most eloquent of all arguments for suitable school buildings. The superannuation of inefficient teachers in the parish schools, followed by the appointment of efficient successors, has another very important advantage. It tends to reduce the number of unnecessary schools. Several large schools, now superfluous, have already been discontinued in this district. In one case the Free Church schoolmaster was appointed to the parish school with the approbation of everybody. *De facto*, he had done the work for years, and had a salary from the Duke of Sutherland. Under the protection of the old Act (which in the matter of superannuation left the minister and heritors absolutely powerless) the old schoolmaster had kept his school shut for I cannot say how many years. In other cases I know of negotiations going on to convey Free Church premises to the heritors where the parochial school buildings are insufficient. In one of these cases, a far north one, every child in the parish has for years been taught by the Free Church teachers. The parish schoolmaster, a respectable old man, not yet superannuated, merely discharges some unprofessional parish offices. Here it would be an injustice to my own knowledge and feeling not to say, that the Free Church education scheme has been very beneficial to Scottish education, not only through the instrumentality of two capital training colleges, but as supplying many a vacant or neglected place with a school, and giving stimulus to neighbouring schools. Considering, however, the ecclesiastical rivalries that led to the establishment of these schools, it is far from wonderful to find some of them in places where, educationally, as boys' schools, they were not required. Yet the number of these is by no means so great as has been sometimes asserted, and it will now, after the 'bone' of 'tests' has been removed from the parish schools, become gradually less. Were there a national system of education, and were a sufficient number of female schools established (a great desideratum), I can scarcely remember a Free Church school building that a commission would find superfluous. While we seem to have no immediate prospect of legislative provision for non-parochial schools, no one is prepared to name any other educational agency that could occupy so well, or even at all, the specific ground now held by the Free Church in the chief centres of our population."

Have you any comment to make on that passage, or do you merely wish to bring it under the notice of the Commission ?—That is all.

Does your committee take any cognizance of female schools ?—They give grants for them.

As separate from all other education, or combined with other education ?—In connexion with the schools taught by male teachers, and in some cases separate from such connexion.

Are these female schools included in the 589 which you mentioned ?—Yes.

That number includes both the general and the separate sewing schools ?—Yes.

Tuesday, 15*th November* 1864.

THE DUKE OF ARGYLL IN THE CHAIR.

REV. DR. COOK, HADDINGTON,—*examined.*

Dr. Cook. *The Chairman.*—You are convener of the Education Scheme of the Church of Scotland ?—I am.

How long have you been connected with that scheme ?—I have been connected with it for a considerable number of years. I have been convener for ten years.

When was that scheme first established, and what were the reasons that induced the Church to establish it ?—It was established in the year 1825, and the original cause of its establishment was the result of an inquiry made specially into the state of education in the Highlands and Islands of Scotland. It was found that there was a great deficiency there, and the General Assembly felt that it would be very important to do what they could to supply it ; and they pro-

posed to have an annual collection for the purpose of endeavouring to raise schools in these districts, and they put it under the charge of the Education Committee. Having been established for that purpose, there was another duty that naturally devolved upon it, and that was to consolidate, so to speak, the information which the Church gets through her Presbyteries, as to the state of education. The Presbyteries examine the schools, and give returns of the numbers, which are conveyed to the General Assembly through the Education Committee. Dr. Cook.

Then, so long ago as 1825, it was a recognised fact that the Highlands and Islands of Scotland were comparatively destitute of the means of education, and this scheme was instituted for the purpose of supplying that defect?—They were destitute in this respect, that while, of course, there was the usual provision in the Highlands and Islands that there is all through Scotland for a parochial school—and in point of fact rather more, because there was a special provision in the old Act that there might be more parochial schools—the parishes were very extensive, and the landed proprietors in the Highlands, though very willing, generally speaking, to do what they could, held properties which were not of much value, and the result was that there were remote districts where education was scarcely accessible, and our desire was that every child in the Highlands, so far as possible, should get the same advantage as other children had.

And the majority of the schools in connexion with the scheme are still in the Highlands and Islands?—Yes; a considerable majority.

Can you state how many there are in the Highland counties, as compared with the Lowland counties?—We have altogether, I think, 200 schools in the scheme; and I think there are about 135 of these on the first scheme, as we call it, *i.e.*, specially in the Highlands and Islands; 43 on the second scheme; and there are 35 or 36 female schools.

How are they managed and superintended?—The clergyman of the parish visits them, and we trust to him to report upon the satisfactory working of them; we also send the secretary of the Education Committee to inspect them, and he inspects a certain number of them every year.

How many does he inspect every year?—I should say perhaps sixty or seventy; he endeavours to get over his inspection in a couple of years; though sometimes perhaps he may not quite accomplish it.

And he sends to the General Assembly a report of the result?—He brings up to the Committee a report of the result of his inspection of each school, and of course we have that as part of the material on which we can report to the General Assembly.

What are the salaries given, and what are the conditions upon which salaries are given,—what do you require before you give the salaries?—We require that the heritors should furnish a house and what is called a croft,—perhaps two or three acres of land, enough for a cow's grass,—and, of course, a schoolhouse. Our salaries generally are about £25, and there is assistance got from the Privy Council besides.

Do you not give salaries smaller than £25?—Yes; in some cases the salaries are not so large; but, generally speaking, the salaries for the Highland schools are either £20 or £25. I think the larger proportion of them are £25.

In addition to the croft and house?—Yes.

What is the nature of the education given in these schools?—It is very much the education that would be given in a parish school in that district. There are many of the teachers sent there who could give a very good education; that is to say, who could teach Latin, and even other branches. I suppose that in these remote districts that is not so much required; but still it is in certain cases.

Do the reports of your inspector give you the impression that the majority of these schools in the remote districts are well and efficiently taught?—Yes; of course there is some variety in that respect: there are some of the old schoolmasters whose schools are not so efficiently taught as those taught by younger men, and men who have been under training; but on the whole, they are very respectably taught, and some of them remarkably well taught.

How many schools in your scheme have been aided by the Committee of Privy Council?—I think about 100; there may be one or two more or less.

Why have more of them not applied for the grants and received them?—The only reason for that is that they do not meet the requirements of the Privy Council. The requirements of the Privy Council were constructed more with reference to the state of England than remote districts in the Highlands; and

Dr. Cook. there are certain requirements as to house accommodation which, I think, would be considered almost unnecessary, and which we cannot very well ask of proprietors in the Highlands.

Do you think the requirements of the Privy Council as to accommodation are practically more difficult to meet often than the requirements as to the qualifications of the master ?—I think so, certainly.

You think that a relaxation of the provisions of the Privy Council, with reference to these districts, in respect of house accommodation, would be a great boon? —I think so ; I have always considered that it would be a matter of very great consequence if there was some power of adapting the general principles of the Privy Council organization to the peculiar circumstances of Scotland generally, and of these districts in particular.

Can you state that there is a marked improvement in those schools to which the Government grant is given, and which have been brought under inspection ? —Yes, there certainly is an improvement. In the first place, they are taught by certificated masters, who are more qualified than the old teachers ; and the very fact of Government inspection acts as a sort of stimulus.

It acts favourably on education ?—Certainly.

Have there been many applications for schools in those remote districts, which you have been obliged to refuse ?—We have not had a great many applications which we have been obliged to refuse. Of course, to a certain extent it is known what the committee has to spend, because the annual income appears in the report, and clergymen know generally what is in our power. I think at this moment we have applications on our list for six schools. A considerable time ago, before I was connected with the Education Committee, I believe a schedule was sent round to all teachers, asking what they thought would be necessary in the way of additional school provision. In regard to such a demand it was likely perhaps that a few more schools would be asked for than were absolutely necessary, and I think the number came to somewhere about 100 additional schools. Since that time we have increased our schools considerably. I think there is an increase of about thirty on the Highland schools within the last twenty or twenty-five years, and there has been an increase of the schools of the Society for the Propagation of Christian Knowledge ; and your Grace is aware that there has been an increase in another way too, viz., from other bodies.

Under the Revised Code, supposing it were in operation, would there be the same facilities for carrying out the system of Privy Council grants ?—That comes to be rather a wide question. If the meaning is, whether there would be the same facility of getting the grants, I don't think so. At present, the way in which Privy Council aid is administered is this : those who originate the schools have nothing to do, practically speaking, with the Privy Council grant. They get a certificated teacher ; if they meet the requirements, the teacher gets a grant paid by the Privy Council for himself, and if there are any pupil-teachers, the pupil-teachers get their grants paid on examination ; the pupil-teachers undergo a regular examination at the end of the year, and if that is satisfactory, the money is paid over to them. The school is examined by the Government inspector, and if he is satisfied, the certificated master gets his allowance, and the managers of the school have nothing to do with it. I believe the plan of the Revised Code is, that there shall be no such direct payments to the master or pupil-teachers, but that the managers, in the first instance, shall make the payments, and shall trust for repayment to the result of the examination of the inspectors. A great many of these schools have been got up in this way : the minister of the parish finds a necessity for a school, and goes to the resident heritors, and gets them to give certain allowances in the way of school accommodation and otherwise ; they know what they are to give,—it is a definite sum ; but I don't think you would get school managers by any means so readily to pledge themselves to make these large advances upon the chance of their being repaid, because, under all circumstances, the return is uncertain, and it is made more uncertain by the time at which the inspection may take place. For instance, suppose I, as a manager of a school, had come forward and offered to advance the salaries of the pupil-teachers, and the certificated money of the master, on the chance that he would make a good appearance, and that it would be repaid when the inspection took place,—the inspection might happen at a time when a number of the children were not in attendance, and from that accidental circumstance of its coming at that particular time of the year, I might be cut out of my return. That is the difference between the managers of

Dr. Cook.

the school knowing that they are pledged for nothing but a certain sum, and the managers coming forward to pay a sum on the chance of its being repaid to them.

With reference to attendance, notice would be given to the managers of the school when the inspector was coming round, so that they might secure the usual attendance?—But at a particular time of the year, when it is getting towards harvest, I don't think it would be very easy to secure a good attendance; and for a considerable time after harvest, at this season of the year, when very likely the inspection would be going on, the schools would not be well filled, and the children would come up after the long vacation not so much *au fait* as they would be at any other period.

Do you consider that the New Code would have any effect, injurious or otherwise, on the character of the education, apart from the question of money?—I don't see that it should; that is a question which perhaps I am not so competent to answer as inspectors of schools, and others who are in the habit of examining them. But I am not very sure whether the kind of examination is so satisfactory as at first sight it might appear to be. Their principle is, that they wish to test results. The old-fashioned way of testing results was to look to the general style of the school, the appearance of the children, and the sort of intelligence displayed by the classes generally. The present plan is to take out each child separately and examine it. I think that interferes with forming a judgment as to the general intelligence of the school; it fritters away the attention of the inspector from the general examination of the school to the examination of particular children, and that always frightens the children. There was an examination of a school in my parish the other day; I was not able to attend, but as it was the first time that there had been that kind of examination, I asked the schoolmistress what effect it had, and she said the children were frightened, and did not make so good an appearance as she thought they would have done.

Do children of all denominations attend your schools?—Yes.

Freely?—I don't think there is any difference made. I once asked my parish schoolmaster if he had any idea how that stood, and he said he had just as many children of Dissenting bodies as other children. In a parish like mine, I suppose the number of Dissenters of all denominations is just about the same as the number of people attached to the Church. The school is attended by 200 or 300 children.

Do you not think that generally the parents send their children to the schools where they think the best teaching will be got, irrespective of the denomination to which it is attached?—I think they do, as a general rule; but there are sometimes circumstances which interfere with that. There are still remains of schools in Scotland taught by persons who have met with accidents and things of that sort, and some people send their children to these schools from a feeling of charity and sympathy; but I think, generally speaking, the parents send their children to the parish school, because it is the school they were brought up at themselves.

You don't think the attendance is determined by denominational considerations?—I don't think it.

Do you personally, as well as your brethren in your Presbytery, examine the parish schools in your own district?—Yes, we have a regular system for carrying on that examination. We have fifteen parishes in the Presbytery, and sixteen clergymen; we divide the schools into four districts, and assign four clergymen (the adjacent clergymen) to each district, so that we may be sure the work is done. A convener of this school committee is appointed, and of course it is understood that the parish clergyman may ask anybody in addition that he pleases. Then they go to examine the schools, and these separate committees report to a committee of Presbytery, of which I have for a long time been convener in my own Presbytery.

You are now speaking not merely of the General Assembly's schools, but of parish schools?—I speak of parish schools. We divide the Presbytery into four districts, four clergymen being appointed for each district, with a convener; each of these district committees reports to the Presbytery convener, and the Presbytery convener makes up a return and sends it to the General Assembly's Committee.

What is the general system of these presbyterial examinations,—is one clergyman appointed to conduct the examination?—The general principle that

Dr. Cook. we act upon—at least the principle which, I think, on the whole, is the best principle—is to ask the master to go through his ordinary work with his classes. We watch it, and if we have any idea that there has been any preparing or getting up for it, we test that by putting questions to the children, and so break in on any system of routine.

Then you think them efficient and *bona fide* examinations, and not merely formal?—Certainly not; we examine for perhaps four hours: the clergymen drop in from eleven to twelve, the examination generally begins about half-past eleven, and goes on for a period depending on the size of the school. In my school at Haddington we begin at eleven, and go on generally till half-past four.

Do you report the result to the Synod?—The committee reports to the Presbytery the number in attendance and the appearance which the children make.

Are there many parish schools within your district receiving aid from Privy Council grants?—Not many; the majority of the teachers are elderly men, who were settled before that became so common, and there is great disinclination on the part of these men to submit to the examination; but whenever there is a vacancy it is almost invariably filled up by a certificated teacher.

You think that, generally, when a vacancy takes place now, the new master is a certificated teacher?—I think almost certainly. We had a vacancy in my own parish the other day, and I called a meeting of heritors, and the question was, whether we should say in the advertisement that no one except a certificated master need apply; but some one objected, and said we might get an uncertificated master, so superior in point of qualification, that he might be preferred. In point of fact, however, the understanding was that a certificated master should be preferred, and accordingly a certificated master was appointed.

Then you look forward to the time when all the parochial schools in your district will come under the Privy Council system?—I think that is the natural result.

Is there not an improvement in teaching the schools in your Presbytery which have received Privy Council grants?—Certainly, so far as that is concerned. I am not quite so sure that the improvement in many schools in Scotland is so marked as one might expect, from the improvement generally, because I don't think they take now the same style of men for schoolmasters that used to be taken when I was a boy.

In what respect?—I was connected with the north of Scotland: my father was a minister at Laurencekirk, and the teachers in the northern counties were generally men who had been at college, and very often they were actually licentiates of the Church, or were looking forward to being licentiates; and so far as my experience goes they are a superior class of men,—men who have gone through a college education, which makes a man a superior kind of man to a man trained in any other way. In the southern parts of Scotland, they don't take these so much; they don't care for men who are likely to come forward in that way.

But have not the improved status which has been given to schoolmasters, and the increased salaries, rather tended to raise the class of men who apply for these vacancies?—Unquestionably it will; it has not yet had time to come into operation to any extent, but there can be no doubt whatever that it will bring forward a better class of men.

Then you look forward to the resumption of the old habit of taking men who have had a University education, more or less?—I should hope that might be so. I remember suggesting once to Mr. Lingen, that instead of a third year at the Normal School, which was at that time contemplated, but which has since been given up, they might give a bursary to the students trained at the Normal School, to enable them to go to college. I think that would have been a great improvement.

In the case of the new masters who are being elected, and who you say are generally certificated masters, have they not generally gone through one or two sessions at college?—Some of them, but a great many are not. A great many are just trained at the Normal School.

You are not of opinion that the education given at the Normal School is practically as good as what they used to get from attendance for one or two sessions at a University?—It is very good education in one way; it is a great object to the men themselves, because if any one saw the lads when they come to the Normal School, and saw them again when they leave it, they would understand what a benefit it is; but it is not the same as education in the college. They have to get more put into them in the Normal School in a short

time. It is more of what I might call a cramming education, than the education of a lad studying for himself, and not under that superintendence. Dr. Cook.

It is a more special and a more narrow education?—Exactly; and does not give the breadth of mind or general intelligence which a lad studying at college would have.

You think that was remarkable among those who had attended the Scotch Universities?—Yes; I think as to general acquirement they were a superior class.

Is it your opinion that there has lately been a falling off in the classical education given in the parish and other schools in Scotland?—Well, I don't know that there has been. In my district of the country, there never has been a great deal of classical education, and in the north of Scotland I don't suppose there is any falling off. In the three north-eastern counties I suspect there is a great deal of it taught; but in East-Lothian and the southern counties there has not been so much of it. There is a circumstance which leads to a good deal of classical education in the north of Scotland, and that is that a great many more parents contemplate the possibility of their children being schoolmasters or ministers, than in such counties as East-Lothian. I think respectable hinds, and people in the lower classes in East-Lothian, think more of giving their boys an education fitting them to be shopkeepers, and that sort of thing, and therefore they don't care so much for classical education.

Does it not arise from a different class of men who hold the land in different counties of Scotland?—Certainly, because the wealthier farmers in East Lothian don't send their boys to the parish schools to complete their education for college; they are there often for a little while, but when they come to the classics they are sent to Edinburgh.

Is not the class who send their sons to college in the north of Scotland, and anticipate their becoming schoolmasters and clergymen, the class of small farmers?—Yes, and occasionally people even of lower status. They make great sacrifices sometimes.

Have you any doubt as to the expediency and benefit of a regular inspection of schools by an efficient Government officer?—No, I think it has done a great deal of good.

Then you think that under whatever system grants may be given, there should be an inspection by somebody else besides the Presbytery?—I think so.

Official inspection?—Yes; an official inspector can do so many things that there would be a delicacy and awkwardness in any other person doing.

In your opinion, will the Revised Code operate injuriously in the parish schools?—When I answered the question formerly, I spoke not with reference to the Assembly schools, but generally with reference to all schools, because the heritors of a parish stand in the place of managers. The same thing would be asked of the heritors of a parish under the Revised Code; they would be asked to make the advance, just as in the case of the Assembly or other schools.

Has there been any improvement in the parish schools in your district since the passing of the late amended School Act?—Well, all the schoolmasters have got better salaries.

Is there not another change by which you are able to get rid more easily of bad masters?—We have not had any experience of that; but the other day we did in Haddington, what I was very glad to be able to do,—we had a very excellent parochial teacher, who had been long there, who was struck down all at once in the midst of his usefulness, by a fit of paralysis, and obliged to resign; and under the amended Act the heritors had the power of giving him a very good retiring allowance, and putting another man in his place.

That is the mode in which you think the new Act has operated most efficiently?—Yes.

As convener of the General Assembly's Committee, you take a general superintendence of the Normal Schools?—Yes.

Have they, in your opinion, been very efficiently conducted?—Yes; I think I may say so. They have done the work assigned to them very well since I have had to do with them. Very soon after I became connected with them, they were put on the system of being supported by grants given on the examinations of the young men at the end of the session, and we had every reason to be well satisfied with the results. A very small percentage of them failed in getting the grant.

How would the Revised Code tell on them, in your opinion?—I think it will

Dr. Cook. tell on them as badly as it is possible to imagine. I don't see how it is possible to carry them on under the Revised Code.

What assistance did you get for the Normal School in Edinburgh under the old system?—It gradually increased. Last year, I think it was somewhere about £8000 or £9000, but I could not say exactly.

Was that for one school?—It included the allowance to the scholars. I think it was about £8000 last year; and it was divided in this way,—about £4000 of it consisted of Queen's scholarships, and £4000 came to us for certificate money.

In what respect do you think the New Code will be so injurious to you?—Very much in the same way as I said the Revised Code would tell against ordinary schools. Perhaps I should mention how these Normal Schools originated. We found it necessary to put the Gaelic teachers through a certain training for the Gaelic schools, and a Normal School was established a great many years ago. We were so struck with the advantages of that kind of training, that a communication was made to Government to this effect, that we thought it might be extended with a view to the general interests of the country, for the improvement of all teachers; but at the same time, the Education Committee were very careful to state to Government that they had no funds at their own disposal for that purpose, and that if it was to be extended, it must be at the expense of Government; and they proposed that the Normal Schools should admit teachers of all denominations. A considerable correspondence took place, and ultimately an agreement was come to that we should pay one-half of the expense of erecting these schools, which cost the Church £10,000 (£5000 in Edinburgh, and £5000 in Glasgow), and we were to give £1000 a year, and Government were to give £1000 a year for teaching the students. The Church began to find that they had undertaken more than they could well do, because that sum had to come out of the collections, and then Government proposed to put us on a new system. They said, "Instead of giving you £1000, we will give you a certain sum at the end of every session, for each student who passes a certain examination—an average of £20 for every male student, and three-fourths of that sum for every female student;" and Government said, "You will very soon find that you will be better off with that system than the other system."

That is something like the principle of the New Code,—testing by results?—Yes, to a certain extent. We proceeded on that system, and Government transmitted a certain sum to the Queen's scholars; pupil-teachers came up, and if they passed the examination they got a bursary, as it may be called, from Government; the Government sent it to us, and we paid it.

What amount did they pay?—About £23 to male students for one year, and £17 or £18 to girls. That might just be called a bursary.

Bursaries are generally annual: was this merely for one year?—They got it for two years, but they had to pass an examination the second year.

Did it enable them to go to College?—No; it was a payment to support them during their attendance at school. Then these Queen's scholars went up to an examination at the end of the session, and if they passed there was a certain sum paid to us. That went on as the system developed, till a very considerable sum came both to them and to us.

What sum came to you, apart from the sum given to them?—I think last year it was nearly £4000.

Was there so much a year, as well as so much for each student?—No; the students got it themselves. The Government sent it to us, but we just paid it over to them; we were bankers for them. Then Government said to us, "At the end of the session we will pay you a certain sum for each male and female student that passes a certain examination," and last year that sum amounted to nearly £4000 for the Normal School in Edinburgh.

Was the amount of money received from Government so large that it relieved the Church altogether from any share of the burden of the Normal Schools?—No; we always paid the sum which we originally agreed to pay. They withdrew from the £1000 a year, but they continued to give £250 to each of the Established Church schools, on condition that we gave the same; and we give £500 to the two schools, Government doing the same.

Then the whole expenditure, except £500 a year, comes from the State?—Yes.

Do you anticipate that, under the New Code, testing by results, you will not be able to get anything like that?—The New Code is quite a different system. By it Government says, "In the first place, we are not going to pay these Queen's

scholarships any longer ; you may pay them ; in the next place, we are not to pay you anything at the end of the session." I had better follow this out in explanation as regards male students. Under the old system, each male student who passed a first-class examination at the entrance of the session, received, as I said, from the Privy Council, £23 during the currency of the session, that is, £46 for his two years' attendance ; then for that student, if he passed the examination at the end of each session, he received an average of £20, that is, for his training in two sessions, £40. By the Revised Minute, we have to advance the £46 formerly paid by the Privy Council to the students, and we do not get the two payments of £20, that is, in all, £40 for his training when that training is completed at the end of his second session. We get £100, paid in five yearly instalments, in lieu of it, subject to the following drawbacks : that the student has taught two years in one school after leaving the training-college, and that the whole payments made under this head do not exceed three-fourths of the expenditure. If the young man, therefore, misconducts himself, or becomes infirm, or dies, or goes into another profession, or does not succeed in getting a school, or does not keep it for two years, we not only get no grant for training him, we don't get even the repayment of the £46 we have advanced for him. Many of these are contingencies over which we have no control, and have nothing to do with the question that formerly determined the grant, viz., whether his training at the Normal School had or had not fitted him for his work as a teacher. Exposed to these contingencies, it is almost certain that we should not draw three-fourths of our expenditure, or students' allowances and expenses of the colleges ; but should we be entitled to do so, no sum in excess of the three-fourths would be paid in any case. The same applies to the female students. Dr. Cook.

Then you anticipate that you will not be able to raise, by collections in the Church, a sum annually which would enable you to meet the contingent liabilities of such an establishment under the New Code ?—I don't think so ; I don't think we could reasonably take it out of the funds of the Education Committee, because these funds were funds resulting mainly from a collection for extending education in the Highlands and Islands, and other destitute parts of Scotland. The only principle on which we took any part of it was that we required a certain number of teachers for these schools, and we were willing to pay so much for their training ; but when it comes to be a system of training for schools generally throughout the country, we could not take the sum out of a fund intended to meet a local want ; and I have no idea that you could get a collection from the people of Scotland for the Normal School in such amount as might be required. I may be permitted also to mention, that in that plan the Privy Council went right in the face of the recommendation of the Royal Commissioners for England, for they said in their report : "We do not recommend any reduction in the amount of aid at present given to the colleges in various forms. The contributions of the State form at present about 76 per cent. of the total annual income of the Church of England training colleges for males ; but this proportion, large as it is, is far from representing the whole amount of public assistance offered to these institutions. It shows what they do earn, but it does not show what they have an opportunity of earning. The forms of the grant are such that a successful college, conducted with vigorous economy, may derive from the State so large an amount of assistance as to be almost independent of voluntary contributions. Cheltenham, for example, earns 94 per cent. of its income from the Government grant, and York, 89 per cent. It may be asserted that though the money is well spent, and though the relation between the Government and the training colleges is satisfactory, the assistance given discourages private liberality, and that the withdrawal of part of it would be compensated by an increase of private subscriptions. We do not agree with this opinion. It appears probable that considerable difficulty would be found in obtaining subscriptions enough for the support of these institutions. Private benevolence usually operates rather to relieve the evils which directly excite sympathy and attract attention, than to prevent their occurrence by contributing to the removal of their remote causes. An institution which produces good teachers may be the most efficient of all aids to education, but it appeals to no sympathy, it relieves no immediate distress, and it accordingly obtains subscriptions with difficulty." That is precisely the statement I should be disposed to make.

Does the New Code make any change on the character of the testing examination, on which the money was to be given,—does it tell injuriously on you by

Dr. Cook. making the testing examination for the bursaries more stringent than before?—No, I don't think so.

Then the loss which you anticipate is not from the difficulty of your students meeting the requirements with reference to learning, but simply from the increased difficulty which will arise from the necessity of their teaching two years in a school before you can get the money?—And the one-fourth deduction which comes on the back of all that.

That is to say that Government will never contribute more than three-fourths?—Yes.

Don't you think it possible for the Church to make up the difference between the £500 a year, which they have been hitherto paying, and the fourth of the whole expense?—I don't think so.

It would not be a large sum?—It would be about £1500 for Edinburgh, and the same for Glasgow. It would come to about £3000 a year. Now our collection for Education yields us about £3200 a year, and the practical difficulty is that the advance must be made by the committee. Our committee consists mainly of lawyers in Edinburgh, and a few other gentlemen there, and I could not ask them to go to the bank and get an advance of a couple of thousand pounds on the chance of raising it by collections throughout Scotland.

You must raise it beforehand?—We got no time to raise it beforehand, because Government stopped the thing when we were entitled to it, and refused to pay.

Your anticipation is that, under the New Code, the Normal Schools would be put an end to,—that the Church would give them up?—I should say there might be an attempt made to carry on one Normal School, but in a much less efficient way; and it seems to me a poor kind of economy, when they were in a state of excellent working, to put them in that position for a small sum like £2000 or £3000 a year.

Have you found many cases in which students of the Normal School, having got these bursaries, did not go on with their profession, and did not become schoolmasters at all?—No; we did not find very many cases of that kind, and I am sure the secretary could furnish the Commission with a return of the results in that respect. When I went to London about this matter, I found that there had been misrepresentations conveyed from Scotland to the Privy Council about it. A statement had been made that an immense number of the young men went into other professions, and that a great proportion of the girls whom we trained went out as governesses, or did not go out at all. I got the secretary to draw up a statement for five years, down to last year, of what became of them all, and the proportion which did not go on was very small.[1]

Can you state what the proportion was?—No, but I am sure we have it in the office. I remember, as to the females, that only two had gone out as governesses in one year; and the proportion of those who did not come forward as teachers (deducting those who had died or were married, which were both legitimate withdrawals) was just 11 per cent. of the whole number. It has always to be kept in mind, with reference to women, that there is a cause of withdrawal apart from their going into any other profession. For example, a girl goes to learn to be a teacher under circumstances at home which may permit her to go out; but these circumstances may change by the marriage of a sister, or from family causes; and I thought that when the percentage of withdrawals was only 11 per cent., we turned out a very fair proportion of teachers for the money.

It appears from your statement that a desire to provide for the Highlands and Islands was the nucleus of your system,—it was to provide Gaelic teachers?—It may be said to have originated with that; and the Normal School of Edinburgh was, I believe, the first Normal School in the kingdom.

Can you state the number of Gaelic students in the Normal School in Edinburgh?—We have generally ten or twelve Gaelic students on the free list.

You give special encouragement to them?—Yes.

Free education?—They get an allowance. When they were not able to pass the Government examination, we used to give these Gaelic students an allowance.

And you still do so?—Yes.

Supposing the parish schools to be well attended and well taught, in your Presbytery for instance, do you think that generally the parishes are so large and so populous as to require another school for the proper education of the

[1] See Return, in Appendix of Documents, D.

people ?—That depends entirely on the size of the parish. In my own parish other schools are required. There are two or three parishes in the Presbytery of Haddington, where there are supplementary schools ; but there are numerous parishes where the parish school is sufficient. I speak at random ; but I should say that in probably one-half or two-thirds of the parishes in Scotland, the parish school is quite adequate to the wants of the parish. Dr. Cook.

Is it not the case that in every parish in Scotland there is at least one other school not connected with the Church of Scotland at all ?—I don't think so. In our Presbytery there are almost none not connected with the Church of Scotland.

Are there no Free Church schools in your Presbytery ?—Three, I think, just.

Are they not located in places where schools were required ?—Perhaps not quite. The Free Church, at the time it separated from the Establishment, went upon this principle, that they wished to erect a church and school in every parish in Scotland ; and in some cases, that led of course to schools being put down where they were not necessary, but I think there has been a good deal of exaggeration about that. I remember looking at a blue-book some time ago, produced in answer to some inquiries, by the Lord Advocate, I think, with reference to these schools, and I found that as to some of the Ross and Sutherland parishes that might be said, but that on the whole it did not prevail to any appreciable extent.

In the three cases which you know of in your Presbytery, do you think the Free Church schools are doing good work, and supplying a want felt by the population ?—I have no doubt of it, but we don't examine the Free Church schools.

You know nothing of their condition or mode of teaching from personal observation ?—No.

From your observation in the Lothians, do you think there is any great deficiency of education among the lower classes of the people,—for instance, among the agricultural hinds ?—I don't think so ; I think the education is very good among the hinds. My opinion is, that every respectable hind in East-Lothian considers it as much his duty to send his child to school as to give him clothes and food.

What is the average scale of fees which they have to pay at parish schools for reading, writing, arithmetic, and geography ?—It varies a little in different parishes. That is a matter regulated by the minister and heritors from time to time. The sum paid ordinarily is, say, 2s. 6d. for reading, 3s. 6d. for reading and writing, 4s. 6d. for reading, writing, and arithmetic, and it goes on perhaps to 5s. 6d. ; that is per quarter. We rather reduced the fees the other day in the parish of Haddington, on the appointment of a new schoolmaster. I think we made them 2s. 6d. for English, 3s. 6d. for English, writing, and arithmetic, and 4s. 6d. for that and grammar and geography.

Do you meet with any considerable number of the class of which I have spoken who cannot read and write ?—I should say not. At marriages they have all to sign their names. Sometimes the bride does not sign her name ; she is nervous a little, she says ; and that is sometimes perhaps because she can't do it.

Does that never take place with bridegrooms ?—No ; I never saw any difficulty in getting the bridegroom or the witnesses to sign, except when they were Irish people.

You think that elementary education, so far as reading, writing, and arithmetic go, is universal almost in the Lowlands ?—I think so ; and a good proof of it is, that I don't see that the farmers ever have any difficulty in getting out of the ordinary class of labourers what they call there, "foremost hind,"—a man who acts as a sort of grieve on the farm ; he goes to market, and has to report to his master the result of it, and to keep jottings of what is going on about the farm.

Do you think the ordinary hinds have a sufficient knowledge of addition, subtraction, and multiplication ?—I think they can all do these at some time or other. Of course, if it is not cultivated it will go away from them ; but they have all the opportunity of getting it, and I think they intend all their children to get it, and that they do get it, as a general rule ; there are exceptions, but these are in the case of drunken careless fellows, who do not send their children to school.

Have you any other facts to state to the Commission, or any opinions to offer as to the state of education in Scotland, or the distribution of the public money for that purpose ?—I don't know that I have. With reference to the Privy Council grants, my own impression is that, upon the whole, the old system

Dr. Cook. wrought satisfactorily. I don't think it was open, to any great extent, to the charge of throwing away money; that is to say, of schools being got up where they were not required. I ventured once to suggest to Lord Granville that, if we had a sub-committee of the Privy Council, with power to adapt, what I would call the general principles of Privy Council administration to the peculiar circumstances of Scotland, which are different from England, all the objections which are urged against the Privy Council grants might be remedied. I think they have wrought well in one way, viz., in preventing collisions very often which might otherwise have occurred.

Do you think it would be possible to distribute whatever sum might be appropriated to Scotland, not on the denominational principle, but on a general system?—I don't think so.

What are the difficulties you see in the way?—Of course my feeling about that is this, that our system of education in Scotland is not a secular, but a religious system. We have a national system already; if you are to carry out that national system, in the first instance you would require to make provision for that, and the kind of provision we would naturally ask for would be that the recent Scotch School Act should be extended to these additional schools. I think it very likely that the Dissenters in Scotland would object to that.

Do you make that observation with special reference to the religious education of the schools?—And their general superintendence.

The Commission has had it in evidence that practically the mode of conducting religious education is identical in all the schools of all the denominations, with the exception of Roman Catholics?—It is not as to the conducting of it that I speak, but as to the body that superintends the conducting of it. So long as we have a national system in existence, where religious instruction is conducted in a certain way, you are almost certain that all the side schools that will be got up in a parish will conform to it. People are accustomed to that system, and expect it in the other schools; and every private schoolmaster acts in that way. But I think the permanence of that religious teaching depends upon a proper religious superintendence, and that you naturally get from the Established Church of the country.

You think the different Churches are the only security for the religious teaching in their own schools?—What I mean is, that the Established Church is the security for the religious instruction of the children in the national school; and if you think an extension of the system necessary, we would naturally say that we don't see why it should not be carried out on the principle at present in operation.

I suppose you would admit that the superintendence of the other bodies is an equally good guarantee for the religious instruction carried on in their own schools?—Yes, certainly; the natural security for religious instruction in the Free Church schools is the visitation of the Free Church Presbytery, and it works in the Free Church exactly as it does in our Church. There are certain consequences that follow on our examination of schools; it is not simply that we go to the school, but we have certain statutory powers conferred upon us, which it is necessary that we should examine the schools to be able to carry out.

What is your view of the statutory powers of a Presbytery in regard to the examination of a school,—suppose you found that the master had given up the teaching of the Bible in the school, what is your opinion of the power of control which you have in such a case?—I think we have power still to enforce that.

A statutory power?—I think so; at least, I hope so. It is not so distinct as it was.

You never met with such a case?—No.

The law has never been tested on that point?—No.

Is it not your opinion that the habits of the people of Scotland, and the opinions of the parents, have been confirmed by so long a course of years, in respect of religious instruction, that schools under the management of committees of parents, with heritors or ratepayers, would practically conduct the religious education on the same plan on which it is now conducted?—In the great body of our parishes I don't think you could trust to the committee of parents, because the parents who send children to parish schools are, generally speaking, persons in humble life, though of course there are exceptions. In many parishes you could not get such a committee. There are many parishes where there are no resident heritors, and you could get no superintendence of schools at all, in point

Dr. Cook.

of fact, apart from the superintendence of the Presbytery. Then as to the powers which we have, our powers as to the hours of teaching and the length of the vacation are reserved to us, because whatever was not specially repealed in the new Act remained. In the new Act there is a provision that there shall be no teaching contrary to the Catechism, or subversive of the Church of Scotland, and of course our presbyterial superintendence is carried on to see that that is observed; and in the case of teachers retiring, the heritors can compel retirement only when the report of an inspector is subscribed or acceded to by the Presbytery. Unless, therefore, the whole system were altered, the superintendence is necessary. Exactly in the same way, in the Free Church schools, the Free Church Presbytery superintends; and I have no doubt if they find anything unsatisfactory, they have the power of displacing the schoolmaster. It is not a mere going in to examine the school, but it is doing so for a certain important purpose, recognised by Statute.

Then I understand you to hold to the denominational principle, as the only security for the religious instruction in the schools; that they shall continue to be in connexion with the various religious bodies of the country?—Exactly, and I think that is the general feeling. When the Free Church established their schools they carried out the same principle with reference to them as we have always carried out with reference to ours,—the parochial schools, they subjected them to regular presbyterial examination; because I have reason to believe that there is a regular examination carried on by the Free Church, just as there is with us.

The Lord Advocate.—Can you tell me what was the number of Assembly schools when the grants commenced in 1826?—I look back about twenty or twenty-five years, and I think we had then about 100 schools on the original scheme, and there are 130 now.

Has not the amount paid by the Privy Council been much more in proportion than the number of the additional schools,—the grants have increased very much, have they not?—Grants have increased because schools have come under inspection; not because there is more given to any one school, I apprehend, but simply because there was at first considerable reluctance to go into the system at all.

You say you had 100 on the scheme twenty-five years ago, that is to say, in connexion with the Privy Council, which had no reluctance to go into it?—No; I must have misunderstood the question: I meant that the number of Highland schools which we had upon the scheme twenty-five years ago was about 100, and at present we have about 130. In the same way there has been an increase in the female schools and the schools in the Lowlands: they have increased altogether from 150 to 200.

Do you think that the increase in the means of education furnished by the committee has been proportioned to the increase of the expenditure by the Privy Council?—The way in which the Privy Council expenditure acted, so far as these Highland schools were concerned, was this: that it made all the teachers more comfortable. They got a better style of man; and I don't see how they could possibly have gone on otherwise, because the expense of living in this country has increased very much within twenty-five years.

If the grant were withdrawn, you could not carry out your scheme?—You would get men to teach, but they would be a very inferior class of men.

As to the Normal Schools, you think it essential, I suppose, that they should be kept up by public money?—I think it is very important that they should be kept up, because, as I said before, if any one saw the young men when they came to the Normal School, he would see how necessary it was that they should go through some training; and if there was no Normal School, the probability is that these young men would go out as teachers as they were. They get all the Normal School gives them, in addition to what they have already.

You think the ordinary principle of supply and demand would not be sufficient to furnish good teachers in the country?—I don't think that the ordinary principle of supply and demand would furnish of itself a system of supplementary education for teachers; that is to say, if the Government did not come forward, I don't think you could permanently depend upon the keeping up of these institutions.

You don't educate professors specially; there is no institution for them kept

Dr. Cook. up at the public expense: do you think it necessary to have such an institution for schoolmasters?—I think we have an institution at the public expense for educating professors, viz., the Colleges.

Which are also open to schoolmasters. But you think £8000 a year ought to be expended on your Normal Schools?—I don't say £8000 should be expended on them; but I say such a sum should be expended on them as would give you teachers enough to supply the demand in the country.

Both in the Established Church and throughout the country?—Yes; there are Free Church Normal Schools. What I said I thought reasonable enough was, that instead of going into the extremely complicated system which the Privy Council proposed, if you think we have been training too many teachers, take an average of the last five years, see how many have been taken up for schools from the Established and Free Church Normal Schools, and allow us a grant for that number; let that go on from year to year, striking off the farthest back year, and then you would see how many were required.

It has been propounded that a training-school is rather contrary to the ordinary principles of political economy, that schoolmasters should train themselves, that the demand would insure their training, and that the best would obtain promotion; but you don't agree with that?—I think not, because there is a great deal of poverty among the lads that come up, and I think the result would be that a great number of them would go into schools without any training at all. There is another part of the system which that applies more to, viz., the pupil-teachers.

You incline to that opinion about the pupil-teachers?—Yes; I have always had a strong opinion on that subject.

That it was inconsistent with principle to pay for pupil-teachers?—That it was unnecessary, to the extent to which it is carried on in Scotland. When they turned their attention to education in England, they not only had to get the children to go to school, but they had to train teachers for them. I don't think that was necessary in Scotland, because, to a certain extent, where you had a thousand schools to give away, you were sure that a certain number would be always coming forward as teachers; and I think a much smaller sum than is now paid out for pupil-teachers would have secured a sufficient number.

Is there any peculiarity in Scotland, as compared with England, in regard to Normal Schools,—would you make a special case for Scotland in regard to them?—When I brought the subject under Lord Granville's notice, I said that there was to a certain extent a difference, because the English Normal Schools are either Church of England Normal Schools, or they belong to some dissenting body. Now our Normal Schools are not so. It is true they are called the Church of Scotland Normal School and the Free Church Normal School, but they are open to students of all denominations. We have not many Free Church students at our Normal School, because they have their own; but we have had, and I daresay have, some Free Church students, and a good many United Presbyterians.

You have told us that a good many scholars of all denominations attend the parish schools: I suppose the Free Church scholars who go to the parish schools have no doubt as to the religious instruction? Do you think they are sent there because it is thought that the presbyterial examination is a security for the religious instruction?—I have known many respectable Free Church people in my parish who have felt that the presbyterial visitation was a security.

And, in the same way, when Established Church scholars go to Free Church schools, do you think the inspection by the Free Church Presbytery is an element in the minds of the parents?—The parents proceed generally on the principle that what has been going on will continue to go on, but people who reflect on these subjects look to the superintendence of both these bodies as a security. I should consider the inspection of Free Church schools by the Free Church Presbyteries a security that these schools were not only taught respectably, but that religious instruction was conveyed in them.

Don't you think the inspection of the minister has much more to do with it than the inspection of the Presbytery, as a security for religious instruction?—But I think it is an advantage to have the Presbytery also, because the minister is in such close relations with the schoolmaster, that he feels an inspection by the Presbytery strengthens his hands very much.

Supposing you could extend the national system on its present footing, do you

think that desirable ?—I think there are certain limits to it, because I have always had a feeling that there should be what I would call a more elastic system than the present system, side by side with it. No doubt, where you have large parishes, and where the population is likely to be permanent, it might be desirable to have an additional permanent school, but there are many cases, where it arises from accidental circumstances, where the school may be necessary now, and not necessary thirty or forty years hence. I think in these cases it is better to meet it in the way that has been done. Take, for example, large public works set down in a parish ; a great many of our parishes have increased in population very much in consequence of that. Dr. Cook.

But taking it in general, if you could provide for the community generally (setting apart those exceptional cases) by extending the national system on its present principle, do you think it would be desirable to do that ?—Well, it would be a very good way of giving additional instruction, provided it was extended with careful reference to the actual need. But, at the same time, there is a very heavy assessment already on the landed proprietors of Scotland for education, and unless you were to go about it very carefully, it would be in some cases a grievous hardship on them. There would, for example, in some parishes be eight or ten schools, Free Church and Established Church, and it would be hard to say that Highland proprietors should be assessed even for a portion of the sum necessary to maintain them as part of a national system.

And so you don't see your way to extending the national system to the requirements of the country, even on the footing on which it stands at present ?—I don't think you could meet all the requirements of the country. No doubt, you may extend it farther and meet many of these requirements ; and in a large parish, where the population was equally distributed, and where it was all of one class, it might be natural enough to say that here was a case for extending it. Thus, supposing the heritors of one parish have a rental of £10,000 a year, and are obliged to keep up a parish school, you might say reasonably enough that there could be no objection to the heritors of another parish, with a rental of £20,000 a year, being obliged to keep up two parish schools, if that were necessary ; but it would be a hard case that, in a parish with a rental of £10,000, because some one establishes a public work, and raises up a large population, you should come on the heritors to meet the increase.

But suppose the funds at this moment expended by the Privy Council would suffice to endow entirely a sufficient number of schools to supply the national wants, would you think that was a desirable thing to do, provided the management were placed on a national footing ?—The difficulty in that case is just the suppositions. I doubt very much whether it could be done. It would be an excessively difficult and complicated thing to say where these additional schools should be set down in many instances.

But I want simply to see whether there are any means in your mind of attaining the end, or whether you think it a desirable end to attain ?—That points to this ; and I think it is right that I should say frankly, that while I should be very glad to see a certain extension of the present system, yet, upon the whole, I think that the Privy Council system has wrought well, and that, under proper regulations, and with some security against an abuse of it, it is the system which, under present circumstances, is likely to work most satisfactorily.

Mr. Dunlop.—Do you think that the four Normal Schools are necessary to supply what is required in Scotland ?—Government must have thought four necessary, when they gave the means for erecting the two Free Church Normal Schools.

They may have done that from some other considerations than their absolute necessity. But, looking to the increased inducements which there are now to respectable people to enter on the profession of teaching, in the way of increased salaries, etc., do you not think that they might be expected to come from a class who would be able to contribute, in part at least, to their own training ?—I think the great advantage of the Normal Schools is, that they provide for the supply, not of the parochial schools, but rather of the supplementary schools in the country, and the sum that will be paid there will be always less than in the parochial schools. I think you could depend on getting the parochial schools supplied otherwise.

Then the Normal School students who look forward to becoming qualified for teaching the higher branches might be expected to pay for part of their training ? —Yes, some of them.

Dr. Cook. And so diminish the expense of the schools?—It would be a fair subject for the Privy Council to consider whether all four were necessary; and I should imagine there is that sort of feeling now between the two Churches, that we would be disposed to go into a fair and equitable consideration of the matter, so as to get it arranged.

But apart from that, do you not think that the expense of any of these institutions might be fairly expected to come from payments by parties anxious to go into the profession of teaching as a respectable profession?—We have not found that in practice; they are a very poor set of lads who come up to the Normal School here and in Glasgow.

They are generally pupil-teachers who have been taken from a very inferior class and forced on?—Yes.

Assuming that they were not forced on by this sort of hot-bed pupil-teaching system, but were allowed to come forward naturally, seeking a profession, does it not occur to you that you would get a considerable number in that class of life who would pay for their own instruction for the special profession of teaching?—You might do so; we do it to a certain extent in regard to female teachers; there are more female teachers who can pay.

Then you have a certain number who pay?—O yes; we have six or seven male teachers, and thirteen female teachers, just now who support themselves.

You consider the inspection of the Presbytery as the only efficient security for religious teaching: have the Presbyteries any farther inquiry than the annual examination you have mentioned?—I don't think a Presbytery would be disposed to interfere further unless there was some reason for it.

If you found reason, how would you proceed to enforce your power of check?—Of course, under the new Act that is a more difficult thing.

Under the new Act, if you found any schoolmaster teaching against the standards of your Church, would not your only remedy be an application to the Sheriff?—No, it is to the Secretary of State; that application, of course, we should make, and I hope it would be attended to.

Have you any power in yourselves to deprive the master?—No, I should say not; we have still a power of deposition reserved under the old Act, but it is simply for disobedience of our orders as to the hours of attendance at school and the length of vacation, which we are not likely to put in force.

All you can effectually do at present, as I understand, is to ascertain the state of religious instruction?—Well, we do that for the purpose of making complaint, if we find it necessary. We have not the power of deposing, but if we were not there, the erroneous teaching might go on.

If you and all other religious bodies had reasonable access to the schools, so as to enable you to make the necessary application, would that not give all the security that you practically have at present?—No, I don't know that it would; I think the Established Church of a country has a right to an attention from the Secretary of State when they come with a complaint of that kind, which, if they were a mere religious body not in that position, they would not have.

You don't think that if they made a well-founded complaint they would not be attended to unless they had that status?—In this country, I suppose there would be every disposition to attend to it; but I think a Secretary of State, with reference to any other body coming before him, would say, "I must know something about you;" because it does not mean merely the Free Church, which is a well-known body, but there is no limit to it when you once begin; any Roman Catholic or sectarian body might come forward.

Therefore, unless you have confidence in the tribunal, you would not be satisfied?—I think, as a permanent thing, and looking to the principles on which legislation is conducted, and to the securities which a Government would wish to take, you have a better security when you say that the National Church of the country shall have the power of coming with a complaint, if they see anything taught against good morals or good doctrine in the schools, than if you were merely to say that if any clergyman, or body of clergymen, chose to come forward and make a complaint they will have an opportunity of doing so.

You seem to think that education will be discouraged by the Revised Code in this respect, that it would throw responsibility on managers which they would be disinclined to take?—Yes.

Would it be necessary for them to undertake that responsibility?—At present the managers agree with the schoolmaster for a certain fixed salary and the fees, and whatever he may get in addition: would the schoolmaster have any more reluctance to agree to the same terms,—the fixed salary, the fees, and whatever else he may get under the new examination?—Of course, if it could be arranged so that the managers would have no more responsibility than at present, it would not affect them in the way I stated. But the arrangement with the schoolmaster was a very simple one under the old system. We said: "You will get a house and a certain salary, and if the school fees amount to a certain sum, you will be entitled to a further augmentation, if your scholars make a satisfactory appearance," and he knew, if he was well-trained, that his ordinary teaching would secure that. But here it does not depend on the general appearance of the school. It is much more uncertain, because it depends on the season of the year when the inspector comes, and it depends also on an examination of individual children; there are also such things as this, which all schoolmasters are aware of, that one year you will have a better class of children than another year. Dr. Cook.

Would that not be a risk attaching to the schoolmaster?—Certainly.

And in the parish schools the heritors never come under any responsibilities beyond the legal salary?—They don't do that in any school at present.

Mr Ramsay.—I think you said the income of your education scheme is £3200?—That is the collection, but that is not all the income, because we get subscriptions and legacies; the income is about £4600 a year.

Of the 201 Assembly schools, there are 135 in the Highlands and Islands,—Gaelic-speaking parishes?—Yes.

Can you tell us how many of the teachers are certificated teachers?—I cannot.

Would it be so large a number as 100?—I think it is very likely, because a great number of the Highland teachers have been trained at the Normal Schools, and they are all likely to be certificated.

Have you many teachers in those districts who do not get the benefit of the Privy Council grants in consequence of defective house accommodation?—Yes; I would not say in consequence of defective house accommodation, but because they have not the house accommodation which the Privy Council requires. Till lately, the Privy Council were very well disposed to make a little allowance for that. But in certain cases we know it is needless to make the application. It is not refused, because it is not made.

Have you ever heard of any case in which the sum received by the Normal School has been greater than the ordinary expenditure for the year?—Yes; the truth is, if the Privy Council had paid us the money which we were entitled to, it would have been greater than the ordinary expenditure for the year, last year; but there was a special provision that whatever was got should be expended on the Normal School; we could not have put it in our own pockets.

Do you think it desirable that a system should continue which provides more than the ordinary expenditure?—Certainly not. The demand came mainly from Glasgow, in consequence of a great number of pupil-teachers who came up in one year to the Glasgow Normal School; this made a great rise in the demand on the Privy Council. There was a regular formal way of making the intimation to the Privy Council: it was done through the Glasgow correspondent, and I was not aware myself, until Government directed attention to it, that there was so great an increase. I said at once to Mr. Lingen that when it happened that we were drawing more money than was required for carrying on the institution, it was quite clear that it was necessary for us to reconsider the matter, and I proposed what I thought was very reasonable. I said, "Take what has been necessary for carrying on the institution in past years, and say your grant shall not exceed the sum you have been paying hitherto, except on a special case made out."

You think the State should provide the whole amount, but not more?—I think the State should not make their grants depend on a certain fixed sum coming from a body who have no power to raise a fixed sum at all, and no sources from which they can draw it.

Mr. Mitchell.—Have there been many complaints against the teachers, in respect of religious or non-religious teaching, during your incumbency?—Not in my own district.

Dr. Cook. How would you say it was generally in Scotland?—I think it is very fairly attended to. Of course, there are differences in so large a body of teachers; you will have men who go into religious teaching with greater heart and interest than others; but so far as religious teaching is concerned, it is generally very fairly conducted. I have seen cases where it was reported that a school was not opened or closed with prayer, and the Presbytery would say that that ought to be done; or if they did not think sufficient attention was paid to reading the Scriptures and the Catechism, they would say, "We think there should be a little more of this."

Have you known many cases of teachers having been removed in consequence of fault being found by the Presbytery on their examination?—No; there have been cases of that kind, but not very many.

Mr. Cook.—They had no power to remove them, before the recent Act, for mere inefficiency?—No, perhaps not, unless it went to a great extent.

Sir J. Fergusson.—Do you see any difficulty in combining the Established Church and Free Church Normal Schools?—Well, I am afraid there would be a little difficulty. It would be difficult to arrange as to what teachers were to belong to one persuasion and what to another.

But suppose they were not required to belong to either necessarily?—The only way in which it could be done, would be if you had a Normal School under Government superintendence altogether, in which certain branches should be taught, and if you said the Established Church may have a teacher to teach the religious department, and the Free Church too; but I doubt very much whether that system would work. That is the only way in which I think it could be done, unless the Government took it out of the hands of the Church altogether; but they have refused to do that, and said they will have nothing to do with Normal Schools themselves.

Supposing a national system provided, do you see any objection to the presbyterial visitation being made indifferently by the various religious bodies?—Yes; the visitation is made for certain purposes, which are pointed out by Statute, and I think it would be a very awkward thing to recognise by Statute Dissenting bodies, which legally have no existence, and to invest them with the same powers as the Established Church of the country.

You don't think that it would satisfy the feelings of the people if the schools were open to visitation by representatives of the different religious bodies?—I don't know that there would be any objection now to their being visited by any respectable clergyman. At our examination in Haddington there is generally one of the United Presbyterian ministers present; but of course it is very different to have them present as a matter of right, with a view to certain ulterior consequences.

Within your knowledge, have Free Church schools not been frequently established in consequence of the parish schoolmaster having become incapacitated by age or otherwise?—No; I don't think that is a cause of the establishment of Free Church schools. It always happens now and then—or it did under the old system, where there was not a provision for an assistant—that when the old schoolmaster became inefficient, an adventure or subscription school was got up in the parish; but I don't think it had to do with the Free Church specially.

Where schools are found within a short distance of each other, one of which is receiving Privy Council grants, has that not often occurred in consequence of the parish school under the old system being badly taught?—In some of the northern districts of Scotland, where a large proportion of the population joined the Free Church, I think there were a good many schools, in the first instance, raised by the Free Church; but that did not go to any great extent, and that is, I think, one of the safety-valves of the Privy Council system, that instead of bringing people under one roof to fall out with each other, there is separate provision made for each.

Then you are in favour of keeping up the denominational system?—Well, to a reasonable extent.

Mr. Smith.—You approve of the religious superintendence by the Presbytery because it is a statutory duty?—Yes; exactly.

You think it is necessary to have some statutory body, whose duty it was to

superintend the school?—Precisely; and therefore no other religious body could stand in the same place, except by Statute. Dr. Cook.

I understood, from your answers to the Lord Advocate, that you would prefer that anything Government should do towards the increase of education should be done under the denominational system, rather than under a national system?—I think so, if you are obliged to choose between them. To a certain extent, I think the Lord Advocate's bill made a valuable provision for the increase of the national system, because there was a power given, which formerly did not exist, of increasing the schools.

That was by assessment; but looking to the grants from the Government itself, do you prefer that these grants should be given under the denominational system than under a national system?—Under the Privy Council system, on the whole, if I were to choose between the two, with the difficulties one sees before him I would be disposed to declare rather for the Privy Council system.

But I understand your difficulties are connected with the management of the schools, and not with any distinct principle?—They are not difficulties connected with the principle of an establishment, but with the management.

Mr. Davidson.—You stated that Free Church students go to the Established Church Normal School, and Established Church students to the Free Church Normal School: have either of them any difficulty afterwards in getting appointed to schools under their own denomination, because they have attended the Normal School of another denomination?—I could not say as to that exactly. Between the Free Church and the Established Church that has not prevailed to the same extent as with reference to other bodies.

But the United Presbyterians?—Of course we would not send a United Presbyterian, though we had trained him ourselves, to an Assembly school; but he would get a certificate from the rector, and the secretary, and myself, of what he had done, and any one coming to the office, and asking generally for a teacher, would be told what his religious belief was.

And the body to which he belonged would not object to him because he had been at the Established Normal School?—No; because I think, generally speaking, the United Presbyterian students are taught there; at least, my impression is that many of them go there.

Mr. Mure.—Does your Presbytery include the whole county of Haddington?—No; the Presbytery of Dunbar is in the county.

I understood you to say that you conceived that in a large proportion of the parishes in Scotland the parish school system was sufficient to overtake education there?—Yes.

And I understood you to give as an illustration what existed in your own Presbytery: are you quite sure that you know the state of your Presbytery quite accurately on that point?—There are many parishes in our Presbytery and neighbourhood that have just the parish school, though there are a good many that have additional schools.

Mr. Davidson.—Are these additional schools generally well attended?—Yes; they are generally erected by the landed proprietors.

Mr. Mure.—We have it that there are six schools in Gladsmuir parish; and in Ormiston four.—Ormiston is not in our Presbytery.

There are seven in Tranent: is that in your Presbytery?—Yes.

The Chairman.—I suppose you would call a side school a parochial school?—No; what we call side schools are of this kind: in Gladsmuir, Lord Wemyss has a school at Longniddry; he pays the salary, and provides the school-buildings, and the schoolmaster gets a grant from Government; at Samuelston, Lord Haddington makes the same provision; so that we have a great many schools in East-Lothian besides the parish schools.

Mr. Mure.—Did I understand you to say that these additional schools were unnecessary?—No; I said there were a great many parishes in Scotland where the parish schools were sufficient. I said perhaps 500 might be in that state.

The Chairman.—You did not mean to affirm the general proposition that the parish schools are of themselves enough for the education of Scotland?—Certainly not.

Mr. Mure.—I suppose, with reference to the parishes you spoke of, the expression might be the parochial system rather than the parish school?—Yes; and

Dr. Cook. under the Lord Advocate's bill, they would have the power of erecting the schools which Lord Wemyss and Lord Haddington kept up into parochial schools.

Do you not think it might be arranged to have one Normal School in Edinburgh, one in Glasgow, one at Aberdeen, and one at St. Andrews (taking the four University seats), all under the Privy Council rules, to suffice for the education of teachers, without confining any of them to the Established Church, or any one denomination?—You know there are the Universities, which not very long ago were connected very closely with the Church of Scotland, but don't now stand in that situation. If that was done with the Universities, no doubt it might be done with the Normal Schools, The thing is possible, but whether I would approve of it is a different question.

Lord Ardmillan.—Is not the personal piety of the teacher the best security for the religious instruction of the school?—No doubt of it, if he has knowledge along with it.

Don't you think that in the parochial schools there would, on that foundation, be good religious instruction though there was no presbyterial visitation?—Of course there might be, but what security have you for it? That is the difficulty.

If the teacher is a pious man, and able to teach, do you not think that there would be security for good religious instruction, whether there was presbyterial visitation or not?—Most unquestionably. You would have, I hope, always in Scotland, a number of men who, because they were religious men, would see to the religious teaching in the school. Still, when you legislate for a national system of education, you don't trust to the individual character of men, but endeavour to take some security for that religious instruction being conveyed.

In securing that the teacher shall be both a good teacher and a man of piety?—So far as it is possible. The second point it is not possible to secure in the same way or to the same extent by legislation.

Saturday, 19th November 1864.

THE DUKE OF ARGYLL IN THE CHAIR.

REV. DR. STEVENSON,—*examined.*

Rev. Dr. Stevenson. *The Chairman.*—You were for a long time a minister of the Church of Scotland?—For twenty-eight years.

In what part of the country?—In the parish of Arbroath for eleven years, and in South Leith for seventeen years.

You have had many opportunities of noticing the working of the parochial system, and generally of education in Scotland?—Certainly, so far as these districts are concerned.

What, in your view, is the advantage or disadvantage of the present denominational system, as compared with a national system of education?—I have always considered the denominational system to have done good, so far as it went, but to be essentially defective in principle. In the first place, it does not necessarily cover the whole area, or meet the whole wants of the case. Another defect of it is, that it does not at all necessarily secure an equable distribution of the Imperial funds which are devoted to the purpose.

You put in the word "necessarily" in both these answers: do you, as matter of fact, think that it has failed very much to distribute education over the country with tolerable efficiency?—It has failed to a certain extent. I don't know that it has so much failed in the more populous districts as it has done in those districts where the population is very sparse. I believe it has failed to a considerable extent in these regions.

In regard to the inequality of distribution, can you in your own experience say that you know localities where it has produced an unnecessary number of schools?—I have known instances where there was needless competition, I believe. I would name one of my own parishes, for example, where that was so eminently the case, that an entire series of schools came ultimately to be amalgamated with

another set, in order to bring them into a condition in which they would meet the wants of the place. Rev. Dr. Stevenson.

You mean they became so much more numerous than the population required, that the different religious bodies agreed to give up some of them?—Yes.

What were the schools that were first placed in competition with the parish schools, which must always exist?—The schools which in Arbroath were erected in competition were Free Church schools, and an effort was made to sustain these in such a way as, if possible, to undermine and reduce the original burgh and parish schools, which were united. That went on for a series of years, but was found to be unworkable, and ultimately a coalition was formed between the two, and the one set of schools was entirely removed. Of course, the set that was removed was the new set of schools.

Between what schools did the coalition take place?—Between the Free Church academy and the burgh school.

The burgh school was on a different footing from a purely parochial school?—The burgh school was partly endowed, and had been for a long time. The parish school proper had been incorporated with the burgh school, and erected into a kind of grammar school. The other set of schools were erected to accommodate the adherents of the particular Church; but it was found they would not work, and ultimately they were abolished.

If that case had occurred in a parish where the principal school was a purely parochial school, any amalgamation or compromise would have been impossible?—It could not have taken place.

It arose in that case from the parish school having been merged in a burgh school?—Yes.

And the management being in the hands of the magistrates of the burgh?—Yes.

And they were able to effect that compromise?—I am not quite sure as to the management being exclusively in the magistrates of the burgh, but it was at any rate on a broad basis.

A popular basis?—Yes.

Was any difficulty experienced in effecting that compromise in respect of the religious education of the children?—I believe not.

And the school has gone on efficiently since?—Thoroughly, so far as I have been able to learn.

Do children of all denominations attend the school?—They do.

Have you known any cases of a similar kind in rural parishes, where there was nothing but a parish school?—I have not personally known any case.

Of the needless multiplication of schools?—I have heard of such things, but I don't know of them.

Then your observation as to the tendency of the system to encourage a number of schools is founded on that one case?—And on general information.

What advantage do you attribute to the denominational system, if any?—I am not aware of any advantage arising from it, beyond the simple fact of conciliating the jealousies of different parties. I know of no practical advantage, no advantage in respect of education, arising from it. I presume it was simply an expedient resorted to for the purpose of conciliating jealousies that could not otherwise be overcome.

Do you attach no value to it in respect of security for religious instruction in the schools?—I do not think that I would attach any value to it on that ground.

You do not?—I do not.

Then you mean to say that you are quite satisfied that under a system in which the schools would be managed by ratepayers, or by local parties, the same system of religious instruction would be pursued as is now pursued?—Perhaps not quite that. What I mean is, that I believe all the denominations in Scotland are equally in earnest on the point of the religious training and education of the young, and that the mere distribution of the schools among the denominations secures no advantage in that behalf. They are all alike zealous and sincere in that respect, I believe.

Do you think that, under what is called a national system,—which is generally understood to be a system in which the management of the schools is not connected with any religious body, but simply with the ratepayers,—there would be

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the same amount of security for religious instruction as there is now?—I have not the least doubt that there might be.

That instruction being now founded on the reading of the Bible, and ordinarily on the teaching of the Shorter Catechism?—I have no doubt that would be quite sufficient to secure the end that we have in view. I must say that my views on that subject have been somewhat more loose and liberal than those of many of my brethren. But I may state that I consider one disadvantage of the denominational system to arise from the fact, that there is at least one very powerful denomination in Scotland which will not take advantage of the grants. I refer to the United Presbyterians. They will not take these grants on the ground of their adherence to the voluntary principle, I believe, and so far as I know they have not one school deriving benefit from them.

We have had it in evidence that the practical operation of the religious instruction is this, that the Bible is read, the whole of the children being present, but that if there are any children of parents not belonging to the Established Church, Free Church, or United Presbyterian Church, they are allowed to be silent, and not to answer the questions addressed to the others: do you think it possible, under a national system, and local management, that some individual might insist on the religious instruction being given wholly at a separate hour, and by a different set of persons?—I think that is very possible. There will be individuals who are difficult to deal with on any possible system; but I know that long before questions arose of such heat and animosity as have arisen in later years, the practice in our parish schools, at least in any of them with which I was connected, was as your Grace describes: Episcopal children were permitted to omit the Shorter Catechism, and Catholic children were permitted to be absent whenever any kind of religious instruction was given. That was the habitual practice in our parish schools thirty years ago.

Are you not of opinion that Episcopal and Roman Catholic parents might, under the new system, be dissatisfied with that plan under which their children, though not obliged to answer, are at all events generally obliged to hear the religious instruction conveyed by a Presbyterian or Protestant teacher?—Possibly they might; and I should see no difficulty in allowing them to be absent from these lessons altogether.

Do you not anticipate the case of a dissatisfied minority insisting on still more stringent conditions, as, for example, that the religious instruction should be conducted on the principle of the Industrial School in Edinburgh, commonly called Lord Murray's School, where the instruction is given by priests and clergy specially called in for the purpose, and at a separate hour?—I am not particularly conversant with the practice of that school, but I presume there is no use of the Scriptures at all there.

Do you think there is no chance, under local management, of a complete separation being insisted on in the parish and other schools?—In some cases that might be; but I should think it a very unlikely thing that it would be frequent in Scotland. In some cases it might be insisted on, and it may be possible that arrangements would be made for that, for the purpose of securing the end of a better general education.

These questions have directed your attention to the comparative merits of a national and denominational system; but have you any definite opinion as to what a national system ought to be?—I came here under pressure, and upon urgency, quite feeling that I have neither facts nor opinions worth communicating; and certainly if I had the contrivance of an Imperial system left to my own hands, I would scarcely know what to do with it.

What meaning do you attach to the phrase "a national system," as distinguished from a denominational?—By a national system I understand a system under management appointed by the nation, superintended by functionaries known to the nation, and which would extend to every portion of the population and every part of the country.

Then you contemplate a central board sitting in Edinburgh?—Sitting wherever it might; but I should certainly desiderate a central board which would have it in its power to bring to reason any local crotchets or difficulties that might arise.

Then, in a national system, you would not trust entirely to the local ratepayers or managers of each school?—Not without a general superintendence.

Rev. Dr. Stevenson.

What amount of control would you give to that central body?—That is a question which I am certainly not prepared to answer.

For example, in regard to the question of religious instruction, would you give them the power of overruling the decision of a majority of the local managers?—I should think it very likely that a provision would be introduced into an Act of Parliament for a national system, which would very much settle that point beforehand.

Do you think it possible or easy, at the present time, to have an Act of Parliament so framed as to give any directions in respect to religious instruction?—I believe any arrangement whatever would be attended with great difficulties; and no doubt the discussion of a question of that kind in Parliament is exposed to peculiar inconveniences. I cannot myself see how it is likely that this question should ever be solved, without some general principle being incorporated into any Act that does solve the question. I am afraid, if it were left to the discretion of a Board, it would be very difficult indeed to pass any Act that would satisfy the people of Scotland generally.

Would you be satisfied in the Act of Parliament, with a clause prescribing what is, in fact, the universal practice in Scotland,—that children of other denominations should be allowed to be present at the secular instruction, without religious instruction being insisted on in their case?—Personally; I should be personally satisfied.

Personally, that would be all you require?—Yes.

All the rest you would leave to local managers?—The provision being general that, with that exception, those who were not contented with the general and usual religious instruction,—that being defined to be the reading of the Scriptures and instruction in the Shorter Catechism,—were to have their religious instruction from their own pastors and Christian teachers.

Mr. Dunlop.—Does your view of the failure of the non-national system apply chiefly to the redundancy in the case you have mentioned, or does it extend to the deficiency?—It extends to the deficiency as well. It does not overtake the whole field.

And, so far as you see the action of your own body, does it seem to you probable that funds will be provided to meet the Government funds, according to the present system, sufficient to make up the deficiency?—I believe there have been difficulties in that respect also,—that we have found difficulty in raising funds to meet the Government grants; and especially with the Normal Schools I believe difficulties have been found, but not of a considerable kind.

Not as to existing schools I mean, but for a further extension, so as to meet the present wants of the population?—I have not been taking any active share in the management of the Education Committee for some years; but I believe we could have expended a very much larger sum to advantage, in providing education throughout the Highlands; and I believe that the Christian Knowledge Society, which is now very well endowed, could expend much more money, if they had it.

Mr. Ramsay.—In reference to religious instruction, you have stated that you think it would be expedient to introduce some provision into any Act of Parliament which might be passed for founding a national system, that the Bible should be read in the schools, and the Shorter Catechism taught: do you think that that is essential,—would the religious instruction not be secured without that general popular feeling?—My own personal opinion on that whole question is this, that the religious education of Scotland might with perfect safety be left to the Scotch people themselves, for the present at all events, and that they would look after all that was necessary connected with that element; but my expression of difficulty rather had reference to satisfying those who would appear as petitioners in regard to the passing of the Bill. I don't think the great mass of the people of Scotland would be satisfied with any Act which left that point completely open, though I myself would have no fear of the result.

Your own opinion is that the religious instruction of the young might be fairly left to the care of the parents?—It might be so left, I think, without the hazard of any disadvantage arising.

Are you of opinion that there is any provision in the law, as it now stands, regulating or providing for the Bible being read and the Catechism taught in the schools?—I believe that the present law for parochial schools insists on that.

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Can you give us a reference to the Statute?—No; but if I had known that I would be asked about that I could have done so.

The Chairman.—You say you would be satisfied to leave the religious education of the children to the people of Scotland: what do you mean by that expression,—do you mean that you would leave the religious education of the children to their parents, out of school, or that you would trust to the parents insisting on religious education being given in school?—I would trust to all parties who are likely to be connected with the management of schools, or with the appointment of teachers, to make adequate provision for the instruction of children in the schools.

You did not contemplate a system under which no religious instruction should be given in the schools?—Certainly not.

Mr. Ramsay.—Without any statutory provision?—I have said I don't think there would be any special hazard in leaving it without statutory provision, because I think that all the people in Scotland who are likely to be connected with the election of teachers, or the management of schools, would to a certainty take care that adequate provisions were made, under their own management, in every local school with which they were connected, for religious instruction. I don't believe that schools would be tolerated in Scotland where care was not taken to have religious instruction.

Mr. Cook.—With reference to the Arbroath school, after the amalgamation of the burgh school with the Free Church school, was there any ecclesiastical superintendence of the school?—Only that superintendence which is provided for by law, inasmuch as a branch of it is the parochial school, and that gives a certain superintendence to the Presbytery.

Then, *de facto*, there was a visitation by the Presbytery?—Continually.

Have you ever been minister of a rural parish?—Never.

Mr. Mure.—Was there any other general superintendence in that school at Arbroath, beyond that of the Presbytery?—The magistrates had a nominal superintendence. I don't think they ever exercised that to any material extent, but they were the patrons of the burgh portion of the school. Only one of the four masters was elected under the Parochial School Act, the other three were appointed by the Town-Council, and to some small extent endowed by them;—they were under their general superintendence, and I believe removable at their pleasure. But as to inspection, in my time, there was no particular arrangement made about that. I was in the school myself once every week generally, seeing all its departments.

But I allude to the period after the amalgamation took place?—With regard to any special arrangements as to visitation or inspection, I am ignorant, because I have been long removed from that quarter.

Were you not a clergyman at Arbroath after the date of the amalgamation?—I was not; I removed from Arbroath in 1844, and the new school was then only coming into existence. It is within my knowledge that the amalgamation has taken place, but I was not on the spot at the time.

Then you cannot say, of your own knowledge, what has been the precise nature of the superintendence of that school since the amalgamation?—I cannot.

The Chairman.—Was the Presbytery in the habit of examining the school before the amalgamation?—Habitually.

And the parish clergyman?—Yes.

Then he took the usual steps to examine in religious instruction, that parish ministers usually take in regard to parish schools?—Constantly.

And in fact, that connexion between the parish minister and the school was what induced the Free Church to set up the other school?—I presume so.

Can you tell whether that system of examination by the parish minister has continued?—I believe it has continued, but whether it goes beyond the parochial department I cannot tell.

Can you say who are the parties in the management?—I am aware that there are one or two United Presbyterians now in the management. I don't know that the Free Church clergymen are in the management; but I have no doubt they are.

Mr. Mure.—In answering a former question as to religious instruction, you said you had no doubt that it might safely be left to the people, "for the present:" what did you mean by that?—I said I would have no fear of the result.

I do think it would be much better to have some security on the point. It would be difficult to satisfy the people of Scotland with any Act of Parliament which did not make an express provision on that point; and, on the whole, I would be much more satisfied myself to see that provision. Rev. Dr. Stevenson.

You mean that it would be safe without an express provision for the present, but that you cannot tell what it might be prospectively?—Precisely.

Mr. Black.—In the establishment of a national system of education, whether do you think it would be better that it should be founded on the principle of extending the system of the parish schools, or that the system of the Privy Council grants should be continued?—The question is one I have thought of repeatedly, and I think it a very important and a very difficult one. It is not easy to see practically how the parochial schools can be extended into a national or imperial system satisfactorily. At the same time, I don't think it would be at present wise to abolish the parish schools as they exist. The result would be, if they are to be kept up, and a separate system introduced, after all, that a truly national system is not attained.

The Chairman.—Do you consider it an essential part of a national system, that it should be absolutely uniform in all parts of the country?—It should be at all events under a central management, so as to secure its application to all parts of the country.

How far do you think it would be satisfactory to leave the existing parish schools on their present footing, as to election and management, while new schools to be adopted were dealt with on the national plan?—Anything like a complete answer to that question appears to me to presuppose some knowledge of the plans that might be suggested. I cannot myself see any practical way of amalgamating the whole of the parish schools of Scotland with a new and national system. I could give an opinion on that if I saw the proposal; and yet I should be extremely unwilling to see them swept away; and if it were possible to extend the system, I should think that the best method; but I don't myself see the possibility of doing so.

What is there in the parochial system which you think at all antagonistic to the general idea of the national system, as you have described it?—The mode of electing teachers laid down by the late Act of Parliament would not be acceptable, I think, in the event of a national system being introduced, and would prove an encumbrance and a difficulty. Then the mode of providing salaries could scarcely be adopted. Perhaps serious difficulties might arise in the way of laying the salaries of so many additional teachers as might be required on the soil. There are difficulties of that description, which appear to me of a very serious kind.

Does not the power which the present law gives to the heritors, in connexion with the appointment of a master, consist in the fact that they almost exclusively pay the salary?—Certainly.

And is that inconsistent with the principle, that if the ratepayers pay their share, they shall have similar power in reference to these masters?—Not at all, presuming that "ratepayers" means something else than merely heritors.

Are you not aware that in the original parochial system, it was contemplated to assess all kinds of property within the parish for the support of the schoolmaster?—I was not aware of that.

With reference to the transition from the present system to a national system, in respect of which the difficulty always is with regard to the transfer of the one set of schools to the other, on what terms do you think it reasonable or probable that existing schools, now receiving grants from the Committee of Privy Council, might be incorporated in the national system, or how do you think it possible to arrive at any clear conclusion on that question?—That is a question which I am certainly not prepared to give any clear answer to. I see very great difficulties in the way of that transfer, more especially as regards the larger seminaries,—the Normal Schools.

You have no suggestion to offer in regard to any plan for bringing the schools now supported by Privy Council grants, into connexion with a national system?—Unless it were found possible to take them over to the other system altogether, which is not very likely.

Do you think that, as many of them are supernumerary schools, that commissioners appointed for that purpose would not think it worth while to take any or many of them into the national system?—Taking Edinburgh, for example, we

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have three large Normal Seminaries. I don't think it could possibly be contemplated that all these would be taken over; and how the selection is to be made would be matter of serious difficulty.

But I mean in regard to the country schools: do you think many of them are so supernumerary, that they could not be well adopted into the national system?—I am not prepared to say that I know the particular facts of a case of that kind. I believe there are some of them which are so situated, in point of locality and otherwise, that there would be a practical difficulty; but I don't think that would very gravely apply to the country at large.

You have already stated that you have had no personal experience in regard to that, and cannot mention any case from your own knowledge, except that of Arbroath?—No; I may say that I never found it in the least difficult to co-operate with any neighbour whatever, in reference to a school, and I was always welcome when I wanted to see what was going on in Leith, and never found any jealousies of such a nature as to raise discord. If the same pleasantness could be obtained in public discussions, which may easily, by a little caution, be realized in private life, the whole of this question might be settled, because I believe the difficulty rests on feeling and jealousy far more than on principle.

Do you think the keeping up of the Normal Schools is very essential to education in Scotland?—That is a question I am not prepared to answer very positively. I regret to say that the experience that I have of the qualifications of teachers at this moment is not so satisfactory as I wish it were. I belong to the Examining Board of our University, for one of the four districts into which Scotland is divided, and though we are continually struggling to advance the attainments of the teachers within our district, we have not definite powers to insist on a particular standard under the present law; and we frequently find that we are obliged to pass men, and send them to be teachers, whom we would not pass if we could help it.

Do you mean that teachers taken from the Normal Schools are not fit for their work?—We don't find it consistent with our duty to ask where they come from, or to what body they belong. We take the class of men that come to us, and they are not so well qualified as we could wish. I believe I am expressing the sentiments of my five colleagues in the University, when I say that one-third, or at any rate one-fourth, of them are under the mark of what we would like to see for any schools in Scotland. That applies to parish and side schools, and to some extent to burgh schools. We pass on the average about ten a year. They cannot get their offices until we pass them.

In the parish schools?—Or in the burgh schools, when the directors choose to send them to us for examination. They sometimes make our examination a condition of their appointment.

Do you mean that in the parish schools there is any law which compels the masters to pass your Board?—Yes, the last Act.

You deal only with teachers who go to the parish schools under the last Act, or such bodies as insist on your diploma being given?—Yes.

Can you state to the Commission what bodies do require that?—Not many have required it hitherto. I think the burgh of Linlithgow have sent us a teacher for examination, and perhaps one or two other burghs have done so; but mainly the parties who come to us are parties who go to parochial schools or side schools. Might I take the liberty of adding, that I conceive one of the very greatest defects of the education in Scotland to concern, not only the very lowest and humblest of our population, but the more advanced; and I most earnestly hope that any arrangements which may be made by this Commission, or otherwise, for the advancement of education, will look to the question of the higher schools,—burgh schools. My own experience is that there has been no difficulty in finding means of elementary education. The difficulty has been to get children to attend with the regularity necessary for what I call education, order and stedfastness and habit being as essential as mere learning; but I have met with difficulty all my life in obtaining means, viz., of preparing a lad for going to one of our Scotch Colleges, in such a way as made it possible for these Colleges to do their duty as we would wish to see it done.

You mean that students come to the Scotch Universities very ill prepared?—Quite unprepared.

You refer more specially to the importance of having burgh schools or semi-

naries in the principal towns?—Yes, advanced schools; and even as to these the difficulties that beset this question are infinite; but what we all wish would be the old idea of bringing the best education and the most advanced within the reach of every individual in the country, whatever his position. We have perhaps gone far enough in merely providing encouragements for carrying out the poorest; but it is a very great hardship in a country so advanced as ours that there should be anywhere a family that cannot obtain access to the means of getting as much Greek and Latin as would fit a boy for going to College, supposing he has a capacity for it. Practically, perhaps, that is unattainable, but it is easy enough to have the country dotted over with such schools as will, with no great difficulty of travelling or amount of expense, bring all that I contemplate within the reach of every one. Rev. Dr. Stevenson.

You are speaking now of middle-class education?—Yes.

Do you think it the function of the State to provide education for the middle classes?—To a certain extent, I think it is. I do not think that the State is called upon to do more in that direction than it is doing when it endows Universities and sustains them; that is to say, I don't think it is bound to put down the means of education at every man's door; but, at any rate, it is bound to make it possible for all who are under its government to obtain such an education as will enable them to reach that position in life for which their character and talents may fit them.

Do you think that there is such a demand for that higher class of education, that academies and seminaries set down in the principal burghs of the kingdom would not succeed, on a purely commercial basis?—I believe the demand is continually increasing, and I hope it will continue constantly to increase, because I do trust that even our commercial classes will become more and more anxious every year to obtain a solid education, including, certainly, some considerable amount of Greek and Latin for their boys,—as much, at all events, as is deemed necessary to a man's understanding his own language. This I have found to be practically a defect in Leith. Edinburgh is well provided with schools, and those of the inhabitants of Leith who are pretty well advanced in point of means can send their boys to the Edinburgh Academy or High School; and though the fees are not high in either, amounting to £10 or £12 a year, besides books, still that is more than a great many people are able to pay.

What would you propose for the encouragement of such seminaries,—would you have direct salaries given to the masters, or grants given per head of the scholars on examination?—I found it totally impossible in Leith to keep a Latin teacher without an endowment. There was, of course, the greatest antipathy on the part of the managers of the High School at Leith, who consist of the Town-Council, to give anything of the nature of an endowment; yet even they (and they are as strongly imbued with the voluntary principle as any class of men I have chanced to know) arrived at the conviction that they must either make it impossible for a boy to be taught Latin there, or give an endowment, and they did give an endowment for some years. I don't know whether they continue it, because I have left Leith, but they did it for several years while I was there; and they did it so that a boy got some Latin instruction at a cheap rate,—says 12s. a quarter; and that could not be done without an endowment in Leith.

Do you think the number of scholars over Scotland is decreasing, who go on to Latin?—I hope not; in many districts I believe it is rather increasing. In some quarters, where industry has been developed, such as flax-spinning, etc., it has decreased.

Do you not think it has been supplanted to a certain extent by other branches of education?—I am not aware that it has to any considerable extent been so. Where Latin has been neglected, other things perhaps have been cultivated more,—mathematics, arithmetic, the elements of engineering, and other useful branches; but I don't think that is an advantage, and I think endowments, to be well applied, should be used for keeping up what is most apt to be neglected, viz., literary education of the best kind.

Have you any opinion to offer upon the New Code in that respect?—I have not. I have not studied it.

You are aware that the principle of that Code is to direct attention almost exclusively to elementary education, so far as public grants are concerned?—I have not looked into the New Code at all. I speak from my constant experience in

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the University. I know that my colleagues, especially Professor Blackie and Professor Sellar, are continually distressed by finding themselves obliged to do drudgery in the elements of the language which they ought to be teaching at an advanced stage. It is an inconvenience to the teachers, but far more to the pupils.

Lord Jerviswoode.—What do you conceive to be the main object of the parents who insist on their children being taught classics in the parish schools,—is it with reference to any particular profession which their children may ultimately choose, or is it merely for a present object?—To a certain extent, the old desire, I believe, prevails widely, even among our peasantry, that they may live to see their sons wag their heads in pulpits, though I don't know that that is so extensive as it once was. I believe the desire to have an advanced education rests in the pride that even the lowest of our peasantry take in seeing their boys get the means of becoming gentlemen, of being useful, and taking positions in life.

Mr. Dunlop.—With reference to what you said as to your examining board in the University examining schoolmasters, what is the restriction which prevents you from requiring the qualifications which you think necessary?—We have no power to prescribe even the subjects of examination, and we have no standard prescribed to us as to the amount of attainments. If a young man comes up to be examined in Latin, for example, we have no means of knowing how much Latin is wanted.

Have you not the power of requiring as much Latin as you think he should have?—We endeavour to press it as far as we possibly can.

What prevents you from pressing it as far as it ought to be pressed, and refusing a certificate?—We are unwilling to stretch our powers under an Act hitherto untried, and which appears to have been based in that respect more on the practice previously existing than on anything else.

Then you think that because the Legislature took that away from Presbyteries, and put it in the hands of Universities, they meant the Universities to lower themselves to the standard of the Presbyteries?—So far from thinking that, we make it a point to press our examinations as far as we possibly dare. We are told that Latin is required for some remote school, but we don't know how much Latin is required. If the youth comes up knowing no Latin, we know what to do with him; and if he does not know accurately what he professes to know, we know what to do with him; but we cannot reject him because he does not know the higher branches.

The Chairman.—You proceed on the principle that he must know accurately what he professes to know?—Yes; we adopt a schedule, containing what we deem necessary to qualify any man for being a schoolmaster.

What is the schedule?—Besides English, grammar, geography, arithmetic, writing, and the elements of mathematics, we require the elements of Latin, in Schedule A, and history. Beyond that, we have not ventured to advance.

Mr. Ramsay.—Is it not customary for the heritors, when they send for examination a teacher who has been appointed to a parish school, to state the subjects on which they wish you to examine him?—Precisely; and these are what we have to examine him upon.

Mr. Davidson.—Do you make a difference in the examination of a young man who has been appointed to a parochial school in one part of the country, and a young man who has been appointed to a parochial school in another part of the country?—So far as the district for which we examine is concerned, we have not much ground for that. We don't cross the Forth, and we don't go west of Linlithgow. But we must, in an arbitrary way, make a distinction between the teacher of a parish school where there is a considerable village, and the teacher of a side school in a remote district in Berwickshire. To a certain extent we take that into consideration.

The Chairman.—Do the candidates come up to you with a paper indicating the branches of instruction which the heritors insist on in each individual case?—Always.

Then that is the restriction on your power,—the qualifications prescribed by the heritors?—Yes; we cannot take them for examination at all till they bring in the minute of election, and a document saying what they wish them to be examined upon.

Mr. Davidson.—And if the examination which they want is of a very low kind, you would consider yourselves entitled to be satisfied with little, and give

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a certificate accordingly?—Yes, presuming always that the party passes our lowest schedule, A, which is elementary.

Mr. Dunlop.—But it prescribes only the branch, not the attainment in that branch?—No; they mention Latin, *e.g.*, but they give us no notion whether they want the teacher to be able to train young men for college, or whether he is to teach the more advanced classics.

Mr. Davidson.—You stated that if there was an extended system of national education, the present mode of electing the masters would not be satisfactory: in what way would it not be satisfactory?—I stated that I did not think that, in the event of a national system being adopted, the election of parish schoolmasters, as at present practised, would prove to be satisfactory for a national system.

In what respect?—I don't think, *e.g.*, that the election of teachers by the heritors and minister of the parish would prove satisfactory under the National system for one of our burghs, or even perhaps for one of our villages, which are, rising up in different quarters.

In regard to a mere parish schoolmaster in a rural district, would the present mode of election be satisfactory, or in what way would it not?—I have heard no complaints against it.

You confine your observations to the larger places?—Yes, and to a general system. That would be one of the difficulties of connecting the present system of parochial schools with any new system,—I mean the different modes of election—one already settled, and another which would require to be settled and placed in other hands.

You have no view to give as to that new mode?—If a teacher is to be paid by a rate, the ratepayers, or representatives of them, would be the best electors.

You stated that it was an unfortunate thing that the attendance at schools was so deficient. Has any mode suggested itself to you of enforcing better attendance?—None whatever; I believe it is almost impossible to overcome the difficulty arising from the negligence of parents in that respect, in towns. I presume nobody would recommend the compulsory system of Prussia, *e.g.*, for this country, and I don't know how far it would be possible to carry it out. I know no plan, except parties on the spot trying to bring out the children, and keep them in steady attendance.

Mr. Cook.—Your examining board does not pass a schoolmaster unless he comes up to the standard prescribed in your lowest schedule, A?—Never.

Supposing a man satisfies the special requirements which a particular school demands, and also comes up to what you have prescribed in your lowest schedule, A, is he not fairly well qualified as a schoolmaster?—Not so well as I would like to see him in many cases.

Why don't you fix your schedule A higher than it is?—The mode of arranging our schedule seemed to be the best attainable in the circumstances. We corresponded with the other Universities, we considered the Act, and we pitched the schedule as high as we could to begin with, and we hoped to be able shortly to advance it. Our experience hitherto (for some three years) is such as to teach us that we would like still more now than ever to advance it; but we have no prospect of being able to do so.

Perhaps you thought that if you put it higher than it is now, you would not have got a sufficient number of schoolmasters?—Yes.

Mr. Smith.—Under the Act there is nothing to prevent you from fixing it as high as you like?—I am not sure of that.

Mr. Mure.—You said that if a teacher came up for examination and knew nothing of Latin, you would know what to do with him: what do you mean by that?—We refuse him a certificate.

The Chairman.—Do you refuse a good many certificates?—We have not refused above two, I think; and in one case the same man came up some time afterwards to be examined a second time, and he had applied himself to the work with such diligence as to be able to pass easily and well. I think the article in that case was Latin.

Mr. Mure.—You refuse the certificate if they know nothing at all about Latin: where do you get that power?—Under the Act.

If you have the power to refuse a certificate if he does not know Latin, how

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does it happen that you have not that power if his proficiency in Latin is not such as you desire?—Because we have no right to prescribe any definite amount of proficiency. If he is able to teach the elements of Latin, we feel bound to say so; but we are very anxious that he should be able to take a class creditably through the more advanced classics—to read Horace, and even Juvenal, with his pupils. We don't think we have the power to insist on that.

Why do you think you have not the power?—Because it was not the custom before the passing of the Act, and we have got no additional power.

You come in place of the Presbytery?—Yes.

Before the passing of the Act, had not Presbyteries power to say to a candidate for the office of teacher, that his proficiency in Latin was not such as they thought sufficient for the school?—I think that, supposing a Presbytery then, or a board of examiners now, choose to pitch arbitrarily a very high standard of classical attainments, the person who came up for examination would have had it in his power to have their decision reviewed, and to raise a very awkward question as to the whole system.

Was any such question ever raised in your knowledge?—We have shrunk from trying it.

Did you ever know of such a question being raised?—I am afraid our experience was very much the other way, in that it was too seldom pressed.

No such question then ever was raised?—I am not aware of it.

Then you come into the position of the Presbytery, under the Statute, in the matter of examinations; and what is there to prevent your saying to a candidate that his proficiency in Latin is not sufficient, in your opinion, for the school?—The opinion, I believe, of the whole of us, and I think of the examiners in all the Universities, was, that while we would endeavour to advance the examinations as much as we could, we would be endangering the whole system, and raising an awkward question, if we fixed a very high standard. I should be delighted to find that it is the opinion of so grave a body as this Commission, that we can pitch our standard wherever we please.

Where is there anything in the Statute which says that if a person does not know Latin you may reject him?—That would oblige us to strike out one article from our lowest schedule, which we should do very unwillingly.

Is there any form of schedule prescribed by the Act?—None; but we must have some standard.

What is the duty which you understand the Act has conferred upon you?—To ascertain whether these persons are qualified to act as schoolmasters.

You have the power of passing them, or refusing to pass them?—Yes.

Then, having got that general power, what is it that limits you with reference to the amount of proficiency in Latin or Mathematics?—Simply the terms of the Act, and the preceding practice, and the common-sense of the thing.

Have the examining body any personal knowledge of the particular district or school to which the candidate is intended to be appointed, as the Presbytery had formerly?—That is impossible, though some of us may chance to know the district.

Are you told generally what the nature of the parish is?—The only means of information we have on that point is from the documents which the teachers bring up to us. The minute of election states the locality where he is to be employed; that is all.

Mr. Dunlop.—Is your examination an examination to see whether the man is qualified for the parish to which he is appointed, or an examination to see whether he comes up to some supposed standard of capacity for being a schoolmaster?—In general, we endeavour to conduct it, in the one sense, in every case. We have a schedule which every man must undergo an examination upon, and if special things are prescribed, we have examinations on them besides; and our examinations are all conducted in writing, with the exception of reading and spelling.

There is no appeal against your judgment?—We are not so sure about that.

Lord Polwarth.—Have you any means of knowing the nature of the school to which the master is to be appointed?—We know the name of the parish, and we know whether it is a parish school or a subordinate school.

Is any statement made as to the size of the parish or the number of scholars, or the character of the population,—whether strictly rural, or partly manufacturing and partly rural?—We have no means of information on these points, except

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from our own general knowledge. Generally some of us know something about the locality, but that is accidental.

Mr. Mure.—Do the heritors generally mention the qualifications which they wish the master to have?—They name the branches very often, which they insist on being taught.

They specify the particular branches which they wish the master examined on?—Yes; if they want French, for instance, they specify it.

You said, with reference to burgh schools and middle-class education, that you would like to see steps taken for having schools of that description, supported by Government funds, dotted here and there over the country: how far distant from each other would you place such schools, and in what kind of localities?—If I were looking to optimism, I would like to see such a school within the reach of every family in the country.

Do you mean within walking reach?—Yes; for example, I had to walk five miles myself to obtain a little Greek with a private tutor when I began my education, and that was a very great hardship.

You think such schools should be within walking reach of every family in the country?—I spoke of that as the optimism, but I don't contemplate it as possible.

But in many of the county towns in Scotland there are academies to which the children go without requiring to come to Edinburgh or Glasgow?—Probably even the county towns would not answer the purpose. In some cases they have been deserted by the population, and the larger towns which have grown up in other parts of the counties would have a better claim to schools of that kind. But I believe it is quite absurd to hope that we could have a higher school in every county in Scotland. I believe that could not be attained; but the more the better. I have not the least doubt that there are districts where such schools might be at once self-sustaining. There are many towns one could easily name where scarcely any considerable endowment would be absolutely necessary. Montrose, Perth, and such places, could supply what is wanted, but there are other places where sufficient schools could not be kept up without extraneous assistance.

Mr. Davidson.—Such as?—At Leith we found it absolutely impossible, and that arose from the peculiarities of the locality. It could have been easily done if Leith had been five miles farther from Edinburgh. The evil was its vicinity to Edinburgh.

Mr. Mure.—But would not a parochial school, with a good teacher of Latin, capable also of teaching the elements of Greek, answer your purpose for the less rich portion of the community?—Our teachers are not so far advanced as I would like to see them. A large number of our parish schoolmasters, who have very showy qualities for the ordinary branches of education, and who could teach the Latin Rudiments and Delectus, and perhaps the Greek grammar, and probably construe a few chapters in one of the Gospels, though not so accurately as one would wish, can be had in every parish almost. But I would like to see very much more than that.

But that exists in a great many parishes in Scotland?—In many parishes it does exist.

Mr. Black.—You said you did not think that one of that higher kind of schools could be obtained without an endowment,—I presume you meant an endowment from the Government: could there not be an endowment, on a national system, provided by the locality?—Certainly.

You stated that in Leith they could not maintain that class of school without an endowment; but could not management be made by which the people of Leith should be called on to provide the endowment?—That suggests what perhaps I ought to have said. There is a power to do that at this moment in the local Police Act. If it is not superseded by the more recent Police Act, there is a power under a local Act to levy an assessment for the support of the burgh school; but that was never acted upon. It was only a power, not an injunction.

Lord Belhaven.—Have you any means of ascertaining, or of forming an opinion, how far a person sent to you for examination is likely to make a good teacher, or what qualities, for the mere purpose of teaching, he possesses?—Practically the only means which we have of ascertaining that is, what we usually apply when we set him to read a portion of an English author; we say to him, "Put such questions as you would do in examining an advanced class upon that, in grammar,

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spelling, or anything you like; let us see how you would examine the class;" but we have no class to set him to work upon. We do that, however, habitually.

Is there any mode you would suggest by which you could be better able to give an opinion with respect to his general qualifications?—Practically, as a teacher?

Both as a scholar and as a teacher?—Our examination as to his attainments is a very sifting one, and conducted entirely by written papers, except reading and such things as must be oral. I can suggest nothing further on that point than that we would find it very convenient to have half-a-dozen very clever boys for him to practise upon.

The Chairman.—You have stated that a local Act for Leith gave power to levy an assessment for schools: does that power rest with the Town-Council?—It rested originally with the Police Commission, which was merged some years ago in the Town-Council, so that it must now rest with the Town-Council; but it is merely a power of levying a rate for the burgh school; it is not a general power to levy a rate for educational purposes.

Can elementary Greek and Latin not be learned at that school?—For many years after I came to Leith they could not. The Latin teacher got himself reduced to one pupil, and gave up. By the active efforts of the late Provost Hutchison of Leith, a Latin teacher was again obtained, and got a few pupils for a number of years, and by teaching French as well as Latin, he contrived to earn a subsistence. He left, and another teacher was appointed, but the emoluments were so low that he could not get on, and the Town-Council paid him £20 a year from the burgh funds.

It would appear, from what you say, that the fault is entirely with the inhabitants of Leith, who do not send their children to learn Latin?—Those of them who are well enough off send their children to the Edinburgh Academy or High School. But the necessity of having this in Leith (where there is no parish school and never has been, though it is a rural parish) arises from this, that there is no means of obtaining an education in the elements of Latin and Greek for the boys of such parents as cannot afford to send their children to the larger seminaries in Edinburgh.

It was not want of endowment which prevented it succeeding in Leith, but the want of children?—What was given in the way of endowment was merely an annual vote from year to year, and that was discontinued.

Supposing a salary was given by Government, by way of encouraging the higher branches, what hope is there that a larger number of children would attend?—Probably there would not be a much larger attendance; if there was steady and constant teaching it would be larger, but it would never be large. It is quite Utopian to suppose that any management would secure for Leith a very advanced school, because Edinburgh is so near, but there would be a provision for giving that education to a class who cannot find it now.

There is the same facility, I suppose, in Leith, as in other parishes, where people are so poor as not to be able to pay for the education of their children, for sending them to the parish school?—There is no parish school.

Is there no such power with reference to the burgh school?—No.

The Lord Advocate.—You are one of the University examiners, and you have explained the general working of the system: how do you think it has worked?—I think it has worked exceedingly well. I think it has great advantages over the previous system. Frequently, I believe the Presbyteries were very faithful and careful in their examination, but that could not be relied upon steadily and always. This system is uniform; the same examination papers, and the same men regularly meeting and doing the work thoroughly.

Have you had experience enough to know whether it has raised the standard of qualification?—I am not sure that we could speak positively as to that. We are constantly endeavouring to press towards a higher standard.

Do you find that the average is creditable, on the whole?—I should say that fully one half are quite up to the mark; perhaps beyond what we could expect; but a portion are imperfect enough.

Have you any suggestions to make by which the system could be improved?—I am not sure that I have. I wish we had the power to insist on a higher standard; and yet I think it might be a question whether it were wise at this

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moment to adopt a much higher standard, because we may make it overshoot the possibilities of the case.

On the whole, you think the Act has worked beneficially for the objects for which it was designed?—So far as any share that I have in it goes, and any knowledge that I have acquired of it goes, I should say that the Act has worked admirably.

Is that the opinion of the examiners generally?—It is the opinion of our body in Edinburgh; we are all convinced that it is a great advance on the old system.

The Chairman.—Have you anything else to state to the Commission which has been omitted in the examination?—Nothing.

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The Chairman.—What is your view as to the advantage or disadvantage of the present denominational system of public education, as compared with what is generally understood by the term, "a national system"?—I should say that I think there are considerable advantages in the denominational system, which make a number of persons cling to it with considerable reason, along with the Government grants, from finding that the system has done a great deal of service. But, on the other hand, I think that the disadvantages of it are great, compared with what a national system might do in Scotland. I see considerable difficulties in the way of the national system, but I think the arguments for it are decidedly the strongest, when the matter is fully considered.

What do you understand by a national system?—I mean the proposal to have a system that shall be comprehensive.

In what respect do you mean comprehensive?—To comprehend the great body of the parties who are now engaged in carrying on denominational schools.

Do you mean a system that would take off the hands, so to speak, of the existing educational parties, schools which they have erected, and now support themselves?—I assume that the national system that will be better than the present, will be one that would incorporate the great body of the schools, so far as are needed.

Do you not consider the present system comprehensive in this respect, that it reaches the children of all denominations without distinction?—I think it does not reach the whole population, and perhaps, in that view, may not be said to reach the children of all denominations in every quarter.

The defect you complain of is a defect as to the extent of the education, not as regards its character?—I am not prepared to speak specifically as to details upon the question, as the department of education has not been one that I am specially conversant with, and I cannot give statistics or particulars in the matter. There are other parties who can speak more particularly on that question; but I think that, upon the whole, the character of the education, so far as any question between religious denominations is concerned, is very much the same.

Then, by using the word "comprehensive," you did not mean to imply that the present system is exclusive in respect to any of the religious bodies of the country?—Taking the whole system put together, I did not mean that the present system, as it stands, is exclusive, but that it does not take in sufficiently the whole population; and, on the other hand, by the word "comprehensive," I meant a system that would embrace all under the same rule and government.

What idea have you formed, and what suggestion would you make, as to the new rule and government of the schools under a national system?—Do you refer to the election or the management?

I refer to both.—With reference to the election of teachers, I think it is impossible that there can be an adequate national system, in the present circumstances, without an alteration and enlargement of the electoral and managing body.

Do you mean by that the electing and managing body of the parish schools must be altered, as well as a new system invented for the schools that are extra-parochial?—I mean that, to make the thing as complete as it is desirable, it would be most important to have the whole one; to have the parish schools and all the new schools incorporated in one system. That would be the most advisable thing to do.

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On the other hand, do you consider that there are any advantages in the denominational system which you would be unwilling to relinquish?—There are some advantages in the denominational system that I would not be very willing to relinquish, without being very well satisfied with the new system.

What are those advantages?—I think there is the entire unity of action in the administration of the schools; and the individuals will feel they have more power to do good in the management of the schools, and have a greater sense of responsibility from having the thing more entirely in their own way of it, and there would be no difficulty in the question of religious instruction, at least in Scotland: because the practice has been, in all the schools, not to proceed on a sectarian footing, and not to oblige any child, whose parents and guardians don't wish it to be instructed in the religious department.

Then you attach no value to the denominational system in respect to the religious instruction of the children?—I don't say that. What I mean is, that there is considerable value in that point as well as in others. There is greater unity of administration, and there is no difficulty as to the question of religious instruction under the denominational system.

What substitute would satisfy you under the new system to take the place which the denominational system gives in respect of religious instruction?—If the arrangements were satisfactory as to the election of teachers, and as to the management of the schools, as far as giving a sufficient amount of representation to the popular mind is concerned, and enabling the majority of the people interested in education in any quarter to have sufficient say; on that supposition, I think that we might have reliance upon the effect that that would give to the religious views of the people of Scotland in the arrangement of the school. There has been some progress of opinion among those with whom I have been accustomed to act in that matter. I observe that in the year 1851 there was a scheme of a bill drawn out by certain individuals connected with the Church to which I belong, and brought under the view of the Government of that date, in which it was proposed that the electoral and managing body should be the heritors and the school ratepayers, without the minister, and that it should be laid down in the Act of Parliament that the Bible, in the authorized version, and the Shorter Catechism, should be taught in the schools, and that otherwise there should be no test for the teacher to take, but that he should simply be bound to teach that as the religious department of the school. That was the proposal made at that time, and I was very much inclined to be in favour of that view, and should still be strongly in favour of it, if it were attainable or practicable. But in the year 1853, when some communications were held with Lord Aberdeen and his Government, I remember it was put in this way, that we should be very well satisfied if in the Act of Parliament it was put, "the religious instruction to be according to the use and wont of the parish schools," in place of specifying the Bible and the Shorter Catechism. I believe that a good many of us, if we could see the other parts of the system satisfactorily arranged, and if it was in the power of the managing body to arrange all the course of instruction, except in so far as the Committee of Privy Council required it to be attended to upon their terms, and if they were able to manage the religious part of the matter as well as the rest—and perhaps if there was something in the Act, like what applies to the Universities now, that the teacher should teach nothing contrary to the standards of the Established Church, —we should then be satisfied to trust to the religious views of the people themselves having influence on the school to manage that matter.

Then I understand you to say that you could be satisfied, in a national system, to leave the question of religious instruction entirely to the local parties to whom the management of the school would be given, without any statutory enactment?—I think so; but perhaps with this, that the teacher should not teach anything contrary to the standards of the Established Church.

That is the only statutory regulation which you would care to have?—Yes; upon that point specifically, provided some other things were arranged.

What are the other things which you would like to see arranged?—I think it would be important that there should be some arrangement for the examination and trial of teachers, as a class, after they had completed their training, so that they should be a set of persons qualified to accept of situations in schools, and that the examination should not be left to take place after the election.

You would have a central body to examine into the qualifications of teachers, and without their certification you would have no teacher eligible?—Yes. Rev. Sir H. Moncreiff.

Is that the principal matter you would have regulated?—There is another matter of equal importance, and that is, to have a thoroughly effective system for the dismissal of incompetent and improperly conducted teachers.

Do you think that the provision for that purpose in the last Act, in respect to parish schoolmasters, is insufficient and inadequate for that purpose?—I am sorry I cannot speak upon that point, as I had not much time to prepare, and am not up to the details.

But it is something of that nature you desiderate?—Yes.

To revert again to the question of religious instruction: supposing that a majority of ratepayers in any parish, upon the motion of some discontented person,—who might be in a minority, but should ultimately get a majority,—should determine to separate altogether religious from secular instruction in the school, and to have it given at a different time and by different persons,—would you have any central authority in Edinburgh, or elsewhere, to control such a regulation, or would you be satisfied with the result?—The result would not be satisfactory to my mind at all; but how far it would be desirable by Act of Parliament to provide against it is another question.

My question was, whether you thought there should be any central authority, having the power of control over local parties in that respect?—That is a point which I have not specially considered, and therefore I could not give a distinct opinion upon it just now. Of course it would be very desirable, in my view, that there should be such a central authority, if it can be arranged consistently with other principles.

We have had it in evidence that in all the schools in Scotland, conducted by all the denominations, a very liberal system has been adopted, in regard to the education of children of Dissenters from the managing body, viz., that they are allowed to have the benefit of the secular instruction without its being insisted on that they shall answer questions on religion; but it is also stated that, generally speaking, the children are present during the religious instruction. Now, supposing Episcopalians or Roman Catholics should, as matter of right and justice, insist that their children should not be obliged even to be present at such religious instruction, and should therefore move that the secular and religious instruction be kept entirely separate as to place and hour and everything else, would you contemplate that result with satisfaction?—No; certainly not. I should think the question of their being present is one thing, and the question of separate hours being systematically arranged is another. I should think it reasonable enough that, at the time when the specific religious lesson was coming on, those children should be allowed to retire; but as for proceeding, on account of these children, to make a systematic separation between religious and secular education, I am not prepared for that.

Would you permit it?—I would be disposed to be against it.

Do you contemplate any provision against such an event occurring?—I have not considered that point sufficiently. Of course, if you had a central controlling authority, it would have something to do with it; but I see that the difficulty springs up in another shape, and the question is, how you are to adjust that principle of allowing children to get the secular instruction, and not obliging them to be present at the religious instruction. Where that difficulty arose to any great extent, I might not object to some arrangements being made to suit it, but they would have to be carefully considered.

You have nothing to suggest on that point?—No.

Don't you think that, practically, under the denominational system, there are facilities for compromise in these matters which there would not be under public boards, and parties acting under statutory powers?—I think there are some facilities certainly from the parties being able to use their discretion; but I don't know that there might not be facilities under the other too, provided sufficient discretion was left to the local body.

Have you any opinion to offer as to the success or failure of the denominational system, in respect to its extent, or its overtaking the population of Scotland?—I think, in one view, the denominational system has been a great success, and there is no reason, in one view, for despondency or discouragement as to the progress of it. I cannot speak as to other denominations, but in the denomina-

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tion to which I belong, I believe there are some considerations which tend to show very considerable success, and much to encourage, instead of discouraging. The financial returns connected with our scheme don't exactly go to prove the question of its efficiency, because a great many strong congregations are independent of the general fund; and it is manifest that progress has been making every year as to the extent to which the system has been proceeding, as to the money drawn from the Privy Council in the country, and consequently, as to the contributions from the parties in the localities. Particulars as to that may be given by those conversant with the details. But, on the other hand, there is an appearance or a reality of failure, in two ways at least. There is an apparent failure in the amount of funds which we have for the support of it; but the fact is, that any appearance of failure just now is to be accounted for very much, first of all, by the feeling of a great proportion of the people in Scotland, that it is really an unreasonable thing that there should be so much division on the subject of education; their feeling that the system of education is so much the same, that it is a sort of waste of effort to have these divided ways of it; and that feeling, existing in the minds of many people, has been increased very much of late by the question of national education being agitated; they always think there is something to be arranged, and that is not a state of things in which the denominational scheme may be expected to flourish as much as it otherwise would do. On the other hand, I am very well satisfied that, if it were to be finally settled that nothing was to be done which would be satisfactory to the great body of the people, our denominational system would then flourish more vigorously than ever. But there is another cause of failure which goes deeper, and that, I believe, arises from an inherent incapacity in the nature of the denominational system, even as supported by the Privy Council grants. I think it can go a great way, but it cannot thoroughly go into the depths of the necessity. The principle upon which the Privy Council grants are, and must be administered in connexion with denominations, is one that always implies that there must be something to meet these grants; and in point of fact, it is found that, neither in the Highlands and Islands, nor in the more populous districts of the Lowlands, where you have a great proportion of poor people, one way or other, can you thoroughly accomplish what is required for the education of the country, by means of the denominational system. You require more to be done for the people, and less to be expected from them. I believe it will be afterwards brought before you, that there are large districts in the Highlands and Islands without adequate schools; and I believe it will be shown that more demands for new schools are made upon the different committees, which exist for promoting schools, than can be met. With reference to the state of the Highlands, of course I cannot speak as to specific facts; I believe Mr. M'Lauchlan, the Gaelic minister here, is well qualified to speak on that subject; and Mr. James Ross, the Inspector of Gaelic schools in the Highlands and Islands, who lives in Edinburgh, is also well qualified to give information on that point. I may say that I am also persuaded that in the populous places in the Lowlands there is an inherent incapacity of the denominational system to reach thoroughly the destitution which exists. We find that the difficulty is great of getting at the very poorest, who stand most in need of it; and I believe one important thing, instead of examining the state of schools, would be to go into some quarters of the towns, and find out, by a specimen in certain localities, the number of persons in a given street that can neither read nor write. You would be able to discover the state of educational destitution by ascertaining that, better than in any other way. There is another objection to the denominational system, viz., the waste of effort. There are some places, though I believe not so many as some imagine, where there are schools of our own denomination alongside of parish schools, where both are not required; and in some cases, though one of the schools is not wanted in that particular locality, it is very much wanted ten or fifteen miles off, where there is no school. That, of course, is a reason why the system is not satisfactory; but the chief reason that I would dwell upon, is the great benefit of having the children all taught together, and the evil that arises, or is likely to arise, from there being any appearance of party in the early training of children in schools, taken along with the great practicability there is in Scotland, from the agreement as to what ought to be taught, and from the way in which combination would give strength to the system of educa-

tion, and carrying out the old Scottish ideas, and the possibility of doing that in conformity with the original principles on which education was set on foot by John Knox and his contemporaries,—I think all that goes to persuade a great many of us that a system of national education would be much the best. Rev. Sir H. Moncreiff.

Then I understand that the objection which dwells in your mind most, is not the waste of effort, but the inadequacy of the denominational system to reach the mass of the population ?—Yes ; more that than the waste of effort.

Are you aware of cases where there has been waste of effort by needless multiplication of schools ?—I am not conversant with details. It is difficult to say that there has been waste of efforts in large towns, because the schools seem all wanted where the teachers are good ; but in the country I have known cases where there was an appearance of waste of effort, though I cannot speak to that.

Has that waste of effort not been mainly from the influence on the present system of the Free Church scheme ?—I cannot be quite sure of that. In some quarters of the country, it must undoubtedly have been so, but at the same time, I don't know that it has arisen from Free Church schools being put down where they did not appear to be required by the demands of the people at the time. There are quarters of the country undoubtedly, where the people at one period insisted, and probably in some cases still insist, upon having schools of their own in connexion with their own Church, and would not be satisfied with what was provided in the parish schools. Where that was the case, of course it lay with the Church to supply the want when it was asked for.

Is there any other educational body, except the Free Church, which has had for an object the establishment of schools in every parish in connexion with the congregation ?—I don't think the Free Church can be said to have had in view practically the idea of having schools in every parish connected with their own congregations. I think there were a great many quarters where the people did not wish to have a separate school ; indeed, from my former knowledge, my experience is, that in many quarters of the Lowlands, the people of the Free Church, wherever the administration of the parish school has been good, and where the teacher has been selected at all in an impartial way, for the purpose of carrying on the education of the community, have been very ready rather to take advantage of the parish school than to make a separate one, in many quarters where they have felt that no injury was to come from it, and they knew how to look after their own principles otherwise, just as the United Presbyterian body have always done, for they have not had separate schools. But there have been other quarters of the country where the case has been different, and where, in order to meet the desires of the people, it was necessary to have the schools ; and of course, one reason of the origin of the system was the number of parish teachers who joined the Free Church, and were put out of their situations. That was one strong reason for it, but there were other reasons, because there were cases where the great body of the people were so dissatisfied with the whole state of things, as regarded the school as well as the Church, that they would not be satisfied without a school of their own.

Has that feeling been altered by the recent changes in the constitution of the parish schools ?—In some quarters of the country it certainly has ; but I cannot speak to the state of feeling in the Highlands, and it is there that it operated most.

Do you think it is a very essential part of a national system that the parish schools should be still further altered in their constitution, and included in the new management and system to which you have referred ?—I should be disposed to say that, properly speaking, if it could be accomplished, it would be right and desirable that the parochial schools should be as thoroughly national as others, and that they should be all on the same footing. I don't think that to leave them just as they are would be satisfactory ; but if an Act of Parliament were passed which left them alone for the present, in so far as they are not getting an extra aid from a new central fund, such Act of Parliament which left them alone, so far as they are still standing, just on the old footing, might not be objected to, provided the other parts of the Act were such as commended themselves to the community. Undoubtedly a great number of people would still say that they would not be satisfied till the whole of the parish schools were placed on the same footing, but I don't know that that would be insisted upon.

Do you think it would be reasonable to insist that the heritors, who now pay

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almost the whole salary of the parochial master, should have as little power in respect of the appointment and management as they would have if they merely came in as ratepayers under the new system?—So long as they continued to pay almost all that is given to the school, it seems reasonable that they should have something more to say in the matter; but that does not quite settle the question as to what other parties should have anything to say.

You refer, I suppose, to the power of the parish ministers, in respect of the parish schools?—That is one point.

Is there any other point?—To make the thing thoroughly national there might be other parties so interested in the school, and in the state of education there, and as to their own children, that it might be a fair question whether they should not have some representation on the Board.

Do you point to a representation of the parentage?—Well, upon some footing or other.

As distinguished from ratepayers?—If the case were such that you could not have ratepayers in the quarter, and you yet had a large body of people, tenants and others, I think it would not in the end be satisfactory if they had not something to say.

Then I understand the result of your answers to these questions, that though you consider it desirable that the parish schools should be included in the new national system, you do not consider it absolutely essential that there should be any farther change on their constitution?—On the supposition of their remaining as they are, another serious question arises, if the Government were instituting some central fund, which should be administered with reference to all the schools. Then the question would arise on what terms the parochial schools should get assistance from that fund.

The parish schools now get assistance from the Privy Council: do you think they should cease to have that assistance, except upon new conditions?—The question is not the same whether they should continue to get as much as they are getting, or whether they should get more; and if they were going to be left as they stand, I don't know exactly what might be considered most equitable; but I have only this general idea, that if there is to be a great central fund, with reference to the schools of the country, there should be conditions annexed to the reception of it, such conditions as will make the whole matter satisfactory to the great body of the people whose children have to be educated.

You have not heard any complaint as to the practical management of the parish schools, have you, from any party?—I have nothing specific to say on that matter, because it is not a subject which I have given special attention to. I have heard, in a general way, a good deal said as to the very efficient way in which some parish schools are conducted, and I have known some very well conducted indeed, even long before the late Act. But I have heard of others not well conducted; and I have heard of some cases where there are no scholars in the parish school, and where the other schools are crowded. Instances may be given probably on both sides.

You don't connect these local defects in the existing parish schools to their connexion with the heritors or the minister, such as it is just now?—It is a little difficult to answer that as a general question, because in particular instances, the local parties, if they were examined, might say that they did attribute it to one of these causes sometimes.

I suppose you are aware that, as matter of fact, the children of Free Church and Episcopalian parents do attend parish schools, without any reluctance or difficulty?—Yes; in some parish schools to a very large extent. I have personal knowledge of that.

On what terms do you think it reasonable or probable, that the schools now existing might be incorporated in a national system?—With reference to that subject, the Free Church itself, or its Assembly, would not have the power of disposing of the property of a number of schools that are placed under the Free Church arrangements, because these schools belong to the local parties. I believe, in the great proportion of cases, from the nature of the title-deeds, they could not be disposed of without the consent of the General Assembly; but I think that is all the power the Assembly would have over them. It would depend on the mind of the local parties, and on their being satisfied with whatever system Parliament might recommend. If the system were made such as

to be satisfactory to the great body of the people of the Free Church, then there would be very little difficulty about the management of that matter; but it would not be in the power of the General Assembly to settle it. Of course, the Assembly has considerable influence in guiding the mind of the people on a question like that; but still it is a question of this peculiar kind, that people feel they have put their hands in their pockets, and gone to a great expense in raising schools; and it requires some strong argument to induce people to put what they have sacrificed so much for out of their hands. Rev. Sir H. Moncreiff.

Practically, don't you think it would result in the adoption into the new system of all the schools erected by the Free Church?—I think if the new system were thoroughly satisfactory, it would end in the greater proportion of these schools being incorporated. There might be some difficulty arising out of this, whether the Free Church happened to be a majority or a minority in the locality. I believe if the Free Church were in the majority, and the system were thoroughly satisfactory, there would probably be no difficulty about giving up the schools; but supposing in any locality they were in a minority, and strongly disposed to keep up their own way, it is very possible that the schools might not be given up, because they might say, "We shall not have the influence, and therefore we had better keep the school ourselves." I am only speaking in a speculative way; for it is impossible for us, even if we were met in Assembly, to say what would be the result.

You have stated that one evil of the denominational system is waste of effort; now that waste of effort must be in the needless multiplication of schools: if in any locality, commissioners appointed by the Crown found a Free Church school where the necessities of the population did not require it, what terms do you think would be demanded for giving up that school, because under a national system, the school being needless, would cease to receive assistance?—I think if the system were satisfactory, there would not be much difficulty about the terms. I think that the people, in all probability, would be ready enough to be saved the special expense of keeping up their own school, when they saw that the thing was to be satisfactorily arranged; and probably, they would be very glad that they had the building to give into the hands of the general management. But that question, about whether any compensation would be required for the school, is just one of the questions on which it is not safe for me to say beforehand what the people would say.

That is a local question, in short?—Yes.

You think the new system would have to deal with each party who has a local school?—I think you must assume that just now. I don't say it would be impossible, if the measure were very satisfactory, to come to some general understanding which would apply to the great proportion of cases; but it is impossible to say so beforehand.

Have you any opinion to state as to the merits or demerits of the New Code, as compared with the old one, supposing the denominational system to be continued?—The principle, even of the Old Code, is not exactly suited to Scottish educational habits, but the Revised Code is still more adverse to them. The principle on which the Privy Council grants go, is to a great extent this: that they are endeavouring to educate the labouring classes, and to give the essentials of education to a class that does not require more; and anything in the Old Code that tended simply to that point, was very adverse to what has long been the Scottish principle of educating the different classes together, and of making the parish schools available for carrying lads forward even to the highest culture. The Old Code did not go so much in opposition to that principle as the New Code does. The New Code, by some of its arrangements specially directed to that point, especially by excluding in the reckoning for the allowances all children whose parents can, by some kind of estimate, be held able to pay for themselves, tends to an attempt to divide the parents of the children into classes, in such a way as comes into collision with the old habit in that respect, and is very offensive to the feelings of many of the people; and I may say this, that while I believed last winter, from what I heard, that the Revised Code would not suit at all in the country districts of Scotland; and while I had reason to believe that the complaints of the teachers about it were well founded as regards many schools, I had some reason to think that it might succeed in our towns,—that it was not against the interest of teachers in towns. From one school that I am

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myself connected with, I had reason to think, and then thought, that the Revised Code would suit as well as the old. But when the instructions given to the inspectors appeared, it required them to go so very rigidly into the question, whether the children are the children of parents able to pay for education; and when the kind of rules were brought out, such as that if a man had apprentices, his children were not to be counted, I found, from inquiring, that the teacher thought in that case that the Revised Code would not work at all, because there was great difficulty, in the first place, in really taking any reasonable steps for ascertaining that point in a school in town. In fact, in Scotland, it is a very unworkable thing to proceed on the principle of the children being classified in that way. But otherwise, there are some things about the Revised Code that are very good. The principle of paying for results is felt by many to be very good; and I think it will be found that many of our Church who have experience in good schools in our towns, will say that the Revised Code, with a little accommodation, would be worked very well for such schools. But it is hardly a sufficient recommendation to say that it will work in those schools in towns, because what you want is to overtake the country, and that which I have adverted to makes it very adverse to the ordinary Scotch ideas; and besides, there lies at the root of the whole matter an idea which is also adverse to our Scotch ideas, viz., that the provision is to be made entirely and exclusively for the lowest class of the people.

Have you any other objection to state to the New Code,—do you think it would have an adverse interest on the higher education, from the exclusive attention which it bestows on the elementary education?—I think the very thing which I adverted to makes it dangerous in that respect. There is another thing which it has done in regard to the Normal Schools: it has withdrawn the inducement to the teachers to cultivate the higher branches, and by doing that it is going in the teeth even of some things recently arranged by the University Act; for that Act laid the basis for the examination of parochial teachers by University men, with the view of even raising the status. Now the tendency of the Revised Code is to bring down the status of the teachers.

Do you mean that the tendency is so, in respect of its incidence directly on the Normal School, or in respect of the mode of counting the scholars in the rural schools?—Partly in the mode of counting, but mainly in withdrawing inducements to them to cultivate the higher branches, under the idea that the teachers may be spoiled for elementary teaching, although it certainly does not hold that a man of high culture cannot be a good teacher of the elementary branches.

What effect will it have on the education in the Normal Schools?—I am not conversant with details. I know the general fact, that in the proposal about the Normal Schools, that in place of attendance for some period upon the classes there, by which the young man was advanced in his training, they accept of service in the actual training of an elementary school in lieu of that, and in that way lower the standard, by making the man get his position without going through a thorough training.

The Lord Advocate.—You have been, I believe, a minister in two country parishes, and also in a town parish: from the experience you have gained, do you think that the parents of children would send them to a school in which religious instruction was excluded?—I am perfectly satisfied that the great body of parents in Scotland would not.

Then I suppose you would consider that substantially a guarantee against the probability of the separation of the religious and secular instruction?—I think the idea of that separation would be very much opposed to the mind and feeling of the great body of the people in the country parishes in Scotland.

And the attempt to enforce it would be neutralized by the children not attending the schools?—I think so.

In regard to any national system, you have said that the heritors who pay the larger portion of the contribution should have the preponderating voice: don't you think it reasonable that all the heritors who pay should have a voice in the management?—Most certainly; I think they should all have a voice in the management, and that the confining of it to those who pay the higher rate is not reasonable in the present state of things.

It accords with your experience that there are many persons with a considerable interest in the parish, who, though they pay largely as heritors, have no

voice in the management?—Yes, I know that. In the parish where I was, that was so to a large extent, and they could not understand how they had no voice in it. Rev. Sir H. Moncreiff.

Lord Jerviswoode.—I understand you maintain the principle that there should be religious teaching in each school?—Yes.

And that, suppose there are scholars attending the schools who don't assent to the principles of religion which are taught by the schoolmaster, they may withdraw?—Yes.

Suppose a district in which there was a considerable Roman Catholic population, who would be entitled, of course, to attend the school, and who might withdraw from the religious instruction; there would be this distinction between them and the Protestant part of the population,—that education in the Protestant religion would be provided in the school, while the Roman Catholics would have no such provision?—Yes.

I presume you consider that to some extent an inequality?—I should consider it an inevitable result.

But it would be so far an inequality between Protestant and Roman Catholic education as regards the provision by the State?—Yes.

Mr. Dunlop.—I think those heritors who pay and have not a voice in the election and management of the parish school, are more generally resident than those of the higher class who are qualified?—Yes, undoubtedly they are more generally resident, and therefore they feel the thing all the more.

And probably they have children actually attending the schools?—Yes.

Mr. Ramsay.—You have stated that you think it reasonable that the heritors, in respect of their payment of their proportion of the parochial teacher's salary, should have a voice in the management: would you not think it equally reasonable that the occupiers, as well as the owners (the occupiers paying one half and the owners the other half), should also have a voice in the management?—I am inclined to think so.

And as far as the teacher's salary is made up of fees—and the maintenance of the teachers depends partly on the fees—would it not be reasonable that the parents who pay these fees should also have a voice in the management?—I think that very reasonable. It depends very much on the circumstances of a particular parish what is the best adjustment, no doubt, but there must be a general rule for all.

You would think it right, in short, that the claims of these different parties should be taken into account?—There is a provision under the Poor-Law Act for the representation of all parties who pay for the support of the poor, and as far as the payment is concerned, something analogous might answer here; but I think it would be well that the parents should have some representation.

You said you thought it would be useful if the Commission were to ascertain the state of education in towns, by taking specimen streets or districts, and finding out how many persons there could read and write: don't you think it would be equally useful to obtain the same information with reference to rural districts?—I spoke for the towns, because it is more difficult to know the facts without a special investigation, from the way in which people are aggregated in towns. In a country district, it is likely that you would more easily get statistics from local parties who are thoroughly acquainted with it, unless the population is dense.

Do you regard the payment by the heritors in the light of an assessment proposed for a specific purpose?—Yes.

The same as any other tax, in short?—Yes.

And you consider their share in the management of the school as not of the nature of a right, but of a trust, I presume?—Certainly.

Mr. Davidson.—With reference to the matter of religious education, does anything occur to you as to the mode in which, in a place where there was a considerable number of Episcopalian or Roman Catholic children, their religious education might be conducted?—I have not thought about that question. I suppose it is impossible to get the religious education of Roman Catholics conducted in any other way except by Roman Catholic priests, or parties taking the matter into their own hands. I suppose it is hardly possible for Protestants to take any responsibility as to that.

Does any objection recur to you in regard to the admission of Catholic priests, or other parties appointed by priests, to the national schools, to teach the Catholic

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children; and have you any objection to that in the case of Episcopalians?—I am disposed to object to that. I think the idea we have is, that the ground for a national system, against the denominational, lies in the fact that, taken as a whole, Scotland is united upon the substantials of religion, and that, though we have these exceptions, there is ground for a national system upon that basis. But you would never get the great body of the people to acquiesce in any national system which allowed the Roman Catholic priests to come into the schools.

Then is it your idea that there should be separate provision by the State for Catholic children?—I should not wish to give an opinion upon that point. We have difficulties on that in point of principle, and some of us don't see our way to the State taking the reponsibility of teaching what we believe to be so decidedly error as the doctrines of the Church of Rome. We think the State might do something for the secular education of the Roman Catholic children, where they won't go to the Protestant schools, and if something were done simply for their secular education we might not object.

As to Episcopalians, would there be an objection to the Episcopal clergyman coming into the national school to teach the children of Episcopalians, supposing they objected to the ordinary teaching of the Presbyterian schoolmaster?—When I look at the question simply in the abstract, I might not myself personally object to that, but when I look to the general mind of the people in Scotland, I am afraid that it would not answer.

Lord Ardmillan.—Supposing that you had a capable teacher, to whom was entrusted the religious education of the school, is not the personal piety of that teacher the best of all securities for the religious instruction of the school?—Most assuredly.

Then, supposing that you had a system of election of the teacher, with the object of securing that he shall be a proper and capable man, and a pious man, do you not think that that election is safest in the hands of those who are most interested in the religious training of the pupils?—It is. I think it is the best security that in present circumstances we can get in Scotland.

Do you not think that in order to secure that the election shall be, in some measure, in the hands of those really interested in the training of the pupils, the parentage, whether in the character of parents, or among the general class of ratepayers, should have a share in the election of the teacher?—I think it is most desirable that they should.

And supposing that you had these matters adjusted on a fair footing, would you be prepared to dispense with any statutory declaration enforcing any particular kind of religious instruction, looking to the strong feeling prevailing among other denominations, than either the Established Church or the Free Church, upon the subject of State interference?—I have already said, that although we should have wished that any Act to be passed would recognise the Bible and the Shorter Catechism, as we think it well might, considering what Scotland is, and the use and wont of the parish schools, still some of us (though it is impossible to say what the views of all would be) would be satisfied with what you have now represented, provided you put in the Act that the local boards were to be responsible for the instruction, both religious and secular; and we should like, and perhaps some might stipulate, that there should be something even in the Act to prevent the master from teaching anything inconsistent with the standards of the Established Church.

Supposing that in any parish there were two schools, very near each other, neither of them very well attended, do you not think it would be a public advantage if in a national system you had one good school, instead of two weak ones?—Undoubtedly, wherever that is the case.

Mr. Cook.—Don't you think that the most effectual means of securing the due and effectual preaching of the gospel in a parish, is the appointment of a thoroughly pious and duly qualified minister?—Most certainly.

But you also think it important, I presume, that the minister so appointed should be subject to the superintendence of his Presbytery?—Undoubtedly, I hold that on scriptural principles.

You have stated that, in your opinion, the best security for the religious teaching of the school is the appointment of a thoroughly pious and duly qualified schoolmaster: don't you think it of importance that that schoolmaster should be, as he always has been, subject to some ecclesiastical supervision?—I think,

in the abstract, it would be very desirable that the schoolmaster should be subject to some ecclesiastical supervision, and if you could have an ecclesiastical supervision in which the great body of the people were united in having thorough confidence, I think there would be no reason for disturbing that. But it is another thing when you are going to have a schoolmaster placed in a position in which it is necessary that the great body of the people shall all be satisfied, and when, owing to the divisions that exist as to ecclesiastical matters, there is a necessity for arranging the thing somewhat differently. I think that the great body of the people will not be satisfied with allowing that matter to remain entirely in the hands of one ecclesiastical body. Rev. Sir H. Moncreiff.

That is, supposing the case of the appointment of what you would probably call a national schoolmaster, who is to teach the whole children ?—Yes.

But is it not an advantage of the present denominational system that every schoolmaster is superintended by the ecclesiastical authority of the denomination to which he belongs ?—I have already admitted, and even maintained, that that is a decided advantage of the denominational system; but I think that, under existing circumstances, the arguments the other way predominate.

Don't you think the fact that the teacher is so superintended is calculated to produce public confidence in the sound religious character of the school ?—That depends on circumstances.

But as a general question ?—There is no doubt that the existence of that superintendence has a tendency to give confidence within the body, when it is a denominational school.

Supposing the bulk of the people to be attached to some denomination or other, it is calculated to give public confidence ?—It tends that way.

Mr. Smith.—I think you said that the present system does not reach the whole population : does that arise, in your opinion, from the want of schools, or from the children not going to the schools ?—I think my observation as to its not going deep enough, applies to the difficulty of putting the schools on a footing upon which you can get the lowest class of children to attend; the difficulty of making it meet the state of poverty in which their parents are, and getting it into a state in which it shall be the business of the managers of the school, and of the master, to work mainly for the bringing in of these destitute children.

Then it does not arise so much from the want of schools as from the want of inclination or inducement to the parents to send their children ?—I don't mean to say that there is not a want of schools ; I think there is ; but that particular kind of objection lies deeper than the mere want of schools. I should say there is a want of schools too, even for that purpose, because in the very localities where that point arises, I think it will be found generally that the schools are pretty well and largely attended, only they are serving the purpose of educating a number of children of a particular class, but they are not reaching the lowest.

I suppose you never heard of children being refused education on account of the poverty of their parents ?—No ; but it is perfectly well known that where children are in that low condition, education is not valued for them by their parents very often, and that they will not come to it unless you use all appliances to bring them to it.

But at present there are facilities for having poor children educated in the schools, provided their parents will send them ?—You cannot judge of the extent of these facilities unless you had all these parents coming to get their children educated.

I understood you to say that the national system which you propose would embrace schools in all the parishes, incorporating in it all the schools at present existing ?—Those that are needed.

That wherever additional schools were required, they should be established under the national system, and that the schools should be aided by Government grants, administered by a central body either in Edinburgh or London ?—Yes.

I assume you would imply in that the same Government inspection that at present exists ?—Yes.

I suppose you approve of the system of Government inspection ?—Undoubtedly.

I understood you also to say that in the event of the parish schools, as they at present exist, not being incorporated into the national system, you don't think they should get Government aid ?—Yes, that is the opinion I expressed ; I think they should either be incorporated or left on their present footing.

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I also understood that your proposal embodied a totally different constitution of the schools, that is to say, that the election of the master and the management of the school should be taken from the parties in whom they are at present placed —the ministers of the parishes on the one hand, and the heritors on the other— and that you would create a body in each parish, consisting partly of heritors, partly of ratepayers, and partly of the parents ?—Yes, or a representation of these.

That would be the managing body ?—Yes.

Do you think that a managing body of that description would be a good managing body for the schools,—do you think the schoolmaster would like to have a managing body like that placed over him ?—I think if it were well constituted and arranged it would do. I may mention that some of my brethren are of opinion that in place of putting the parish minister out, you ought to put all the Presbyterian ministers in. My own opinion is, that it would be the perfection of the thing, and following out John Knox's idea, to put all the Presbyterian ministers in; and I could see no objection to that, if you were sure of a sufficient number on the board otherwise. I would not wish to see the whole government in the hands of the ministers of different denominations; but if you had a sufficiently large body, so that the ministers should simply be individual units in it, that might settle the question.

Do you think a large body would be the best managers of a school ?—You could appoint a committee. "Large" is a comparative term.

Then I understand you to say that in the event of the system which you have described not being carried out, you would prefer the present system of aiding each denomination by the Privy Council grants,—there is no medium between the two ?—Of course, it would not do for any one to say that there is only one way of doing a thing; there may be different ways of getting a national system.

But I was talking of the system which you have shadowed forth ?—I gave an idea of what we might acquiesce in; but of course the general idea we have is, that if you could get a national system that would incorporate all, it would be better than the present, and that there are great defects in the present, and great objections to it.

But if you could not get such a system as would incorporate all, would you prefer the present system, as now administered ?—That seems just to mean that I would prefer it to an unsatisfactory national system. We should certainly feel it very necessary to urge that some things should be amended in the Revised Code, to make it suit Scotland.

You stated that it had a tendency to separate children into classes, one class of children receiving aid because their parents were in a certain position, and another class not receiving aid because their parents were in a better position ?—Yes.

Has any objection been stated to you on the ground that the managers would have to advance the money themselves to the schoolmaster, while they were not sure of getting it repaid to them ?—That would be extremely inconvenient and troublesome to the managers, but I have not heard any great objection taken on that point. My experience, however, is limited.

Have you heard any objection stated to the system as applicable to the Normal Schools, on the same ground ?—Yes, I think I heard that stated as a difficulty, at least it has been felt as an annoyance; but I don't think it would be raised by us as a vital point.

You have not gone into it yourself ?—No.

Mr. Mure.—If the examination for a schoolmaster's certificate under the new regulations were confined to the more elementary branches of education, and did not include Latin and mathematics, do you think it would tend to lower the standard of the qualifications of a schoolmaster in Scotland ?—I think so, certainly.

Do you think that a great objection to the Revised Code as regards Scotland ?—Decidedly.

And if that limited nature of examination were introduced, the probability is, that the class of schoolmasters whom we have been in the habit of having in our parish schools in Scotland would be lowered ?—I think so.

And the education in the parish schools lowered too ?—Yes; and they would be no longer available for bringing on good students to College.

With reference to the body which you spoke of as the new managing body

under a new system, I understood that you would like to see the Presbyterian ministers introduced?—I referred to that view as entertained by a good many whom I know; and I said that if I were to look at it in the abstract, I would be of that opinion myself, but I did not say that I was satisfied that it could be arranged. Rev. Sir H. Moncreiff.

But you think it would be a good electing body, if it could be arranged?—Yes, provided you had a sufficient board, besides the ministers of the several denominations.

Keeping up that idea of the ministers of the different denominations being members of the electing body, and passing to the question of ecclesiastical superintendence, do you think that any scheme could be devised under such a national system, by which some ecclesiastical superintendence, in the shape of clergymen belonging to the different Presbyterian denominations, selected or nominated by the University Court, could be made a sufficiently workable body?—I don't think that impossible at all. I think it quite possible that that would be approved of by the country. I think it quite practicable. But it occurs to me that, apart from the ministers of different denominations being in the managing or electing body, or eligible if there was a representation, the right of visiting the schools might be allowed to all Presbyterian ministers.

The Chairman.—You stated, I think, that the discussion of the possibility of a national system being adopted, has operated as a difficulty in working the denominational system: are you of opinion that, if it was found impossible to satisfy the public in respect to a national system, the denominational system might be worked with such energy as to overtake the whole field of Scotland?—I am still of opinion that it would labour under the defects I have referred to. All I said was, that some little discouragement has taken place in regard to the financial part of the source of the denominational schemes, which, I think, very much due to their looking forward to a national system; but I stated that that was only apparent.

Mr. Dunlop.—What is the ecclesiastical superintendence exercised over schools in connexion with the Free Church?—The schoolmaster is appointed generally by the Deacons' Courts; and I don't know that he is under any very direct superintendence apart from this: that the Church Courts have a right to see that the teaching in the schools is in accordance with the principles of the Church.

Supposing the Presbytery found that the teaching was not in accordance with the principles of the Church, what machinery have you for getting rid of the teacher,—is there any?—I am not prepared to say exactly the course which would be taken. There is a little complication about it, as the schoolmaster is not looked on as an ecclesiastical office-bearer.

The Lord Advocate.—The Deacons' Courts are composed very much of the kind of people whom you were suggesting for the managing body of the schools under a new system?—The Deacons' Courts, where things are well constituted, are composed of the elders and deacons, and the minister; and the elders and deacons are generally the persons of most repute in the congregation.

You find no difficulty in such a body electing a schoolmaster?—No.

Mr. Cook.—A deacon is an ecclesiastical office-bearer?—Yes.

REV. DR. ROBERT LEE,—*examined.*

The Chairman.—What is your opinion as regards the present system of education in Scotland,—the denominational system, as it is called: what are its defects?—I have all along thought that it had almost every defect which a system could have; principally because it was a bonus to sectarianism and to division among the people, as it appears to me. Dr. R. Lee.

What other defect has it, in your opinion?—It is a great waste of public money.

Do you mean in respect to over-schooling?—I do.

Are you personally acquainted with many parishes where it has led to great waste of effort in that respect?—I can hardly say I am personally acquainted with them; but I have no doubt whatever that such is the fact. I have heard it stated by so many people, that I think the fact cannot be seriously doubted.

Is it your general impression that there are a great many parishes in Scotland

Dr. R. Lee. where there are more schools than are necessary for the population?—That is my opinion decidedly.

And that these schools were erected by denominational parties in rivalry with each other?—Yes.

You can state no cases in which that is so?—I should not like to do so, because it would involve me in a great deal of investigation which I have not leisure to undergo; but I have no doubt I could support my opinion by undoubted and numerous cases.

You have a general impression that it has led to over-schooling in particular localities?—Yes.

Have you any opinion as to its being open to another objection, which is, in some respects, of a wholly different kind, viz., that it does not lead to enough of schooling in some parts of the country?—I think that is likely; but I am not equally clear on that point.

I gather from these two answers that your objection to the present system is somewhat a theoretical objection against any system which addresses itself to religious rivalry?—I have that opinion strongly; at the same time, I have no doubt of the other two practical evils which your Grace has alluded to.

You have a strong objection to any system of education which addresses itself to stimulating the rivalry of different sects?—Undoubtedly.

Then you attach no value to the connexion of secular and religious education?—I think it a great obstruction to religious education.

In what respect?—I have always found that when two or three men are expected to do the same thing, it is ill done. When we have three examinations of a student for a particular thing, the first examination trusts to the second, the second to the third, and among the three there is not a good examination. At present, the minister trusts to the schoolmaster to teach the children religion; the parent trusts to the schoolmaster; and the schoolmaster trusts to the parent, and among the three, religion is extremely ill taught.

Then you think that, as matter of fact, religion is extremely ill taught in all the existing schools in Scotland?—The only systematic religious instruction generally is that of the day teacher, who whips it into the scholars, and that is not teaching religion at all. The parent trusts to that, and the minister trusts to it, as I know by personal experience; and the consequence is, it is very ill taught.

What would you substitute for it: do I understand you to point to a system in which the schoolmaster should have nothing whatever to do with the religious instruction of his scholars?—Nothing whatever.

You are of opinion that the school system of Scotland should be entirely secular?—Yes.

To whom would you trust for the religious education of the children?—To the pastors and the parents.

Would you make any provision to secure that the pastors should give religious education?—That belongs to the Church.

You would leave it to the various religious bodies, and the parents, to provide religious instruction separately, at another time and place?—Yes.

Do you think that would be a sufficient security for religion being taught at all in some localities in Scotland?—I think it would be wherever there is a church; at all events, I am sure that religion would be much better and much more systematically taught than it now is.

Would you propose that the school building should be available at certain hours for the teaching of the children by their respective Churches; or would you propose that there should be no provision whatever made, so far as the State is concerned, for religious instruction?—That is a matter which would be regulated by circumstances. I should see no objection to allowing the school premises to be used for religious instruction, if it was not disagreeable to any party in the parish. I think that is a matter which should be left to the people in each particular district.

Is there not a considerable number of persons in every large community, and especially in large towns, who belong to no Church whatever?—Some years ago, when some zealous persons wished me to establish a new Sunday school in the Greyfriars parish, my deacons went through the parish, and they found that every child, with the exception of two or three, was at a Sunday school; and I

know for a fact that all attend some Sunday school, and some attend two, or even three. There is such competition between religious bodies, that instead of the children being at no Sunday school, they are at two or three. Dr. R. Lee.

Then you don't anticipate that there would be any risk of a number of parents being perfectly satisfied with the secular instruction, and not sending their children to any religious instruction whatever?—There is such keenness and competition among the sects, that parents sacrifice their children to the system. Instead of their not being taught at all, they are overtaught, and the parents are apt to devolve it too much on others.

Then you anticipate no danger to religious instruction from this complete separation?—None whatever. The only danger is that there may be too much religious instruction; I mean too much going to Sunday schools.

Does that observation apply equally to the comparatively neglected population of great cities like Edinburgh and Glasgow?—I can only say what I have ascertained in my own parish, which is a very poor one.

Do the parents pay for the Sunday schooling of these children?—Not at all; instead of their paying, the children get cookies, and fêtes, and excursions to the country, and every sort of bribe.

Is the attendance regular at these schools?—I believe it is.

Is that within your own knowledge?—I think it is as regular as at schools of a low description. I know that at our Heriot schools, to which a low class of children come, the attendance is very regular.

How would that system apply in rural parishes, where there is not the means of the same competition between different religious bodies bribing children to come to school?—The children who attend any particular church could attend after the service, as they do often now, and the minister can make arrangements for meeting them at the time most convenient for them.

Are you not aware that generally, in Scotland, the children don't attend church or chapel at all, till they are considerably advanced in years?—An hour during the week, or an hour on Sunday, can be arranged for their attending. There is no more difficulty in their attending religious instruction than in attending the ordinary instruction, nor so much, because it does not last nearly so long. An hour in the week, or a couple of hours in the week, at the most, would be quite sufficient.

Have you any suggestion to make, in other respects, as to the substitution of a national, for the present denominational system in Scotland?—It is a system to which lately I have not been turning my attention particularly; but I shall be happy to answer any question about it.

What would you approve of in respect to the management of schools under a national system; I mean as to the constitution of the managing body?—That might be arranged in many ways. I should think it very essential that a great proportion of the management should be local, and that the people should have an interest in the education of their children. I think there are great evils in a system purely central.

I suppose you think the entire elimination, which your plan proposes, of the religious element, would practically be a great facility?—Of course it would. Religion is the thing that makes all the difficulty, whatever people may say. I am jealous of you because you belong to the Established Church; and I have an interest in the chapel, and I think the school helps the chapel, and therefore I stand up for the school.

You speak of the possibility of a separation between religious and secular instruction; but do you think it possible to separate the subjects?—It is as easy as to separate the Shorter Catechism from the making of a shoe.

Do you think it possible for a schoolmaster, if he is free to do it, to teach irreligious doctrines in the teaching of history?—We cannot avoid that in any case. If I apprentice a boy to a shoemaker, the shoemaker may teach him irreligion; if I send him to a dancing-school, the teacher may teach him irreligion.

Do you not admit that the fact of the teacher being a member of a religious body, is to a certain extent a security that he will not teach secular instruction in a manner which conflicts with Christianity?—I don't think so at all. I think the only security is what people have when they send their children to be taught dancing or music, or anything else, viz., to select a man in whom they have confidence. I believe there is no other security whatever.

We have had numerous witnesses who have stated that they have such confi-

Dr. R. Lee. dence in the present state of feeling amongst the parents of Scotland, that they know they will not elect as a teacher one who will not teach religion. But supposing there is an entire separation between secular and religious instruction, and that it is free to local parties to elect anybody, don't you think it possible that, in the teaching of history, which comes into contact more or less with questions of religion, it would be easy so to teach the children as to conflict with the doctrines of Christianity?—Of course it may be done. It may be done in teaching science or anything whatever. If a man is determined to do it, he can bring it in by ways that you cannot avoid.

You attach no importance to the system which connects the teaching with the membership of a Church?—Not in the least.

You would not contemplate in an Act of Parliament an enactment such as there is in the Act as to the Universities, that the teacher shall not teach anything contrary to the doctrines of Christianity?—I think it is not worth the paper that it is printed upon.

Have you any suggestion to make as to the mode of supporting these schools, as to local assessment?—I should say, if a system of that kind were seriously contemplated, the country should be divided into school districts. The division of parishes is very inconvenient, both for churches and schools. I should imagine that a great many difficulties will be overcome by making school districts, and then assessing the property within these districts in some way or other.

You have no detailed plan in your mind which you wish to lay before the Commission?—No.

With reference to the qualifications of teachers, are there any precautions which you would take with the view of raising the standard, or otherwise, of parochial teachers?—I should think that the only way effectually to raise any profession is to pay it sufficiently.

Do you think the present scale of salaries in the parish schools is still entirely inadequate in the rural parishes?—I would not say entirely so; as it is eked out now by a system of which I don't approve, viz., the pupil-teacher system; I could not say that it is altogether inadequate; but I disapprove entirely of that system of pupil-teachers.

With respect to the examination of masters, and the ascertainment of their qualification, do you think the present system is working satisfactorily?—I have experience only of that in the University of Edinburgh, where I am one of the examiners, and I should say it is working very well indeed. I think the examination is fair and reasonable, without being an extremely high one.

What is your opinion of your own powers as an examining body as to raising the standard of qualifications: is it within your competency?—It is left very much to the discretion of the examiners.

There is nothing to limit your discretion?—I don't think so.

I understand you have fixed on a minimum schedule of qualifications, and that no candidate gets your certificate unless he passes it: do you consider it competent for you to raise that standard?—I should think so; it has been fixed by our discretion, and I suppose it may be unfixed by it.

Is it not the case that the heritors of a parish can specify the branches of education which they wish the teacher to be competent to teach?—That is left in the same position as under the old Act.

You would still leave it to local parties?—I think they are the best judges.

And the functions of the examining board would be limited to seeing that the master is a thoroughly good teacher in the branches which these local parties think necessary?—Yes; or if they omit any ordinary branch of education, the examining board would see to it.

Supposing the denominational system to be continued, would you approve of the New Code, as compared with the Old Code, as a better system of administering the public funds?—I am so imperfectly acquainted with the New Code that I would rather not offer an opinion upon that.

The Lord Advocate.—You have had experience of the former mode of examining schoolmasters by the Presbytery?—Yes.

Do you think the present system is an improvement on that?—Very decidedly; the other system had the great defect of not being uniform; one Presbytery was strict, and another lax, so that there was no uniformity in it.

Lord Jerviswoode.—When you examine a candidate for a school, have you any

knowledge of the particular locality to which it is proposed to appoint him; of the class of scholars that attend the school; or have you merely the information which you get from the heritors as to the subjects on which they wish him examined?—There is no formal communication made to us, but from the minute of election we gather something, and one or other of the examiners has almost always some local knowledge; so that we have generally a pretty correct idea of the wants of the district. Dr. R. Lee.

But you hold it important to know something of the particular wants of the place?—Certainly.

Which you don't necessarily get at present?—No.

Mr. Dunlop.—You said you had an opinion regarding the system of pupil-teachers,—would you favour us with your opinion on that subject?—I have paid a little attention to that, from having been long a governor of Heriot's Hospital, and having been seven years convener of their Education Committee; and I have all along been of opinion that a body like Heriot's Hospital (and the same applies with even greater force to the Government) should not take upon it both to educate the children, and to become an educational institution, which it is at present under the pupil-teacher system. The Government is not only undertaking to educate the people, but it is undertaking to superintend a great educational system for the preparing of schoolmasters. It appears to me that that system generates considerable abuse, and also incurs very unnecessary expense. I think the teacher should get his education where he can, and he should be tested sufficiently before he enters on his office.

Can you mention any abuse which has resulted from the system?—I think it unnaturally and injuriously stimulates the production of teachers; it makes the teacher's position a lower one than it would be, just as in the Church we produce too many preachers, and the consequence is that the whole body is lowered by an unwholesome competition. Besides, the schoolmasters have a great interest in getting pupil-teachers, and their attention is sometimes injuriously withdrawn from their proper business, and directed to working up the pupil-teachers to pass their examination. They are paid so much for each.

You think the system a forcing-bed, which forces on more candidates than are necessary?—I think so; it is an extravagant and imperfect way of doing what could be done more cheaply otherwise.

Apart from that objection, do you think the teaching of the school would be more effectually done by an assistant than by pupil-teachers?—That is a subject which we have had a great deal of discussion about in Heriot's Hospital; and I think the general opinion there is, that the system of pupil-teachers is a very bad system, for this reason, among many others, that a very young teacher has almost never command of his temper, and that is essential to teaching any children, much more those that are very young.

Mr. Ramsay.—In the Normal School, Government makes a payment to each student, and also an allowance to the institution for each: would you make the same objection to the State paying the institution in respect of the pupil-teachers?—Decidedly not.

Mr. Davidson.—Do you think a national secular system a possible system to be adopted in this country?—If the Government would take it up, I have no doubt it is quite possible. People in this country, when they understand a thing, always come to approve of it if it is just and right. I have no doubt that if it were fairly and boldly taken up by the Government, they would get a great deal of support which they don't now count on, even in Churches.

Lord Ardmillan.—May I ask if a system, neither declared by Act of Parliament to be secular, or to be mixed religious and secular, but simply left free to the management of certain local boards, subject, of course, to proper inspection, would not be satisfactory?—I think not. The consequence would be that the bigots in the neighbourhood would compel the teacher to teach what they liked. It would become oppressive to the minority.

Then your opinion would be, that if it were so left free, the result would be the actual religious instruction of the people?—And of the most bigoted kind.

I presume of the most Calvinistic kind?—"Calvinism" is a very wide word. There are very different phases of Calvinism. Many things are thought to be Calvinistic which are not so.

Mr. Cook.—You stated, I think, that you considered the subscription by

Dr. R. Lee. schoolmasters, of the test or declaration which they are required to subscribe by the Act 1861, was not worth the paper it is written on?—It was by the professors, I said.

You said it was not worth the paper it was written on?—I said I thought so.

Would you apply the same observation to the subscription by the ministers of the Church, to the tests which they are required to subscribe?—That is a very different thing.

In what respect?—The ministers of the Church of Scotland sign a test, and I am not aware that any of them are found openly to violate it. It is in the matter of their profession, and none but a downright dishonest man would violate it in these circumstances. When a professor comes to sign a test at a table, he considers—"I am no way in connexion with religion here;" he does not view it in the same light. We must take men as we find them; and it is perfectly well known that there have been scores of professors who did not hesitate to say that they did not believe what they had signed.

But, taking men as we find them, don't you think the subscription of a written promise by a professor elect, or schoolmaster elect, or any other man, that he will do or not do something, affords some security?—I don't think it affords any security. I could give you twenty facts to prove that; fifty, if you like.

It goes for nothing?—It has been found to go for nothing. It is looked upon as a mere formal introduction to the office.

Do you think it is a venial transgression if it is disregarded?—That is quite another thing. I am speaking of what is done, not of what is right to be done.

Is it not equivalent to falsehood if a man makes a promise and does not keep it?—No doubt of it; but I have stated what the actual result is.

You say that, practically, it has been found to be of no value,—then there is a system of falsehood practised by the men called on to subscribe these declarations?—That does not follow in the least. I have not said that since the last Act was passed anybody has violated his promise. But I say, the tendency of these things is to embarrass men's consciences, and not to control those whom it is most important to control. It is a net which catches the conscientious, and lets everybody else get through it.

You are in favour of the separation of secular and religious education, and you have said that in the event of such separation being carried out, the religious instruction would be left to the Church: how would that be carried out?—The minister can do it; it is his business to teach the young as well as the old, by himself or others. They are part of his proper charge, and it is a dangerous thing to pretend to do it for him.

I suppose you think the disadvantage which you mentioned as incident to the present system, of the parent trusting to the schoolmaster, and the schoolmaster to the minister, would not then exist?—Not to the same extent. If there were only two parties, it would not be so bad as if there were three. Besides, the third party cannot do it. To whip religion into a boy is like threatening him into love.

Mr. Mure.—You said, as regards the Privy Council grants, that though you could not give instances, you thought they had the effect of multiplying schools in certain districts?—Yes, that is my impression.

And you were not certain whether it did not leave others with too few?—I am not so clear as to that.

But the principle of the Privy Council being to give a sum corresponding to the efforts made in particular districts, does it not follow that, in districts where there is no inclination, and no means to provide local funds, the Privy Council system fails?—Undoubtedly; it helps those who can best help themselves, and leaves those who cannot help themselves to absolute destitution.

Have you any doubt that there are places where the system has failed from that circumstance?—I should suppose so.

On the matter of the separation of religious teaching, and leaving it to the parents or the clergymen, you said that certain days in the week might be fixed for that purpose?—Or on Sunday.

Do you propose that it should be personal teaching by the clergyman, or by somebody appointed by him,—the schoolmaster, for instance?—If the minister thinks the schoolmaster a proper man to do it, that is a matter for themselves privately. The minister must be left to do it in the way he thinks most judicious.

You see no objection to his employing the schoolmaster for the purpose?—If I were the clergyman, I should take into consideration whether the employment of the schoolmaster in that way would be judicious. In some cases it might be very judicious, and in others not. You must leave it to the clergyman. Dr. R. Lee.

Do you think it should be done by means of classes?—I suppose so.

How would you secure the religious teaching of young children if they did not make themselves master of the subjects given them,—how would you compel them or draw them into learning the lessons?—A minister who has any influence with his people, which every minister of common sense has, would enlist the parents into teaching their children; and the most important thing is that the parents should take an interest in it, and do the most of it. They will themselves learn by teaching their children. In most parishes you can get young men, who may be employed as deacons or otherwise, to establish Sunday schools in different localities, and to secure the co-operation of the parents in getting the children to prepare their lessons, the minister exerting his influence, and encouraging all parties; and I think in that way the thing would be done far more effectually than at present.

Then do I understand that you would not approve of any system for teaching religion, by which the scholar would be punished in any way for not going through the lesson prescribed for him?—I should be very sorry to whip a child in connexion with religion, unless it were for violation of a moral law.

Would you exclude that?—My principle is, as little punishment as possible.

You said your great objection to the schoolmaster doing it in school, was whipping it into the children: do you think the historical parts of the Bible would be learned by a number of young children, without some means being taken for the purpose, if they failed to do so?—I should rather they did not know the historical parts of the Old Testament, than be whipped in connexion with religion.

Would you exclude prescribing tasks as a punishment?—I should not like to lay down any absolute rule; but I think it ought to be a principle not to connect whipping and punishing with the teaching of religion.

Would you exclude punishment of every description,—I don't mean corporal punishment only, but punishment in the shape of prescribing a task?—If I am driven to say yes or no, I should say I would exclude punishment; because no man is a proper person to teach religion, if he has not power to influence the children, without resorting to punishment. If he has to do that, he is not a proper person to be a religious teacher.

Do you think the whole population of the country would learn their lessons, connected with religious subjects, without punishment or tasks of some kind?—Yes, as far as they can learn it at all. God is love; and religion can never be whipped into any one.

Mr. Black.—Don't you think there may be some other way of exciting the interest of the children?—No doubt of it.

Mr. Dunlop.—I am not quite sure that I took up exactly whether your scheme was to make provision for facilitating religious instruction out of school hours, or simply to content yourself with prohibiting the giving of it in school hours?—I did not express any opinion on that subject. I think the schoolmaster ought to be appointed to give secular instruction, and nothing else. That is as far as I went.

Then you would positively exclude religious instruction?—I think a national system ought to regard only, and to confine itself to, the giving of secular education.

And anything beyond that would be merely in the way of giving facilities?—Yes.

The Chairman.—I understand you to go farther. I understand you would not be satisfied with a national system which did not prohibit the local parties from allowing their teacher to teach religion?—In the school, as part of the school system, certainly.

Supposing you were unable to get an Act of Parliament which shall establish a new system of education in Scotland, the basis of which shall be a prohibition on the local parties to mix up secular and religious instruction,—would you prefer the continuance of the denominational system, to another system which would allow local parties to regulate that matter according to their own plea-

Dr. R. Lee. sure?—I have not considered that; and it would require some consideration before I answered that question.

Have you not stated to us your opinion, that if local parties are allowed to regulate that matter, they would regulate it in a most bigoted manner?—I am afraid they would, in many cases.

On what facts is that opinion founded?—On this fact, that in these matters people who have the strongest opinions would be the most active, and they will be the people connected with the churches and sects in the neighbourhood. The consequence will be that the quiet people will be victimized; they will be timid in expressing their opinions, and will allow those bigoted and strong-willed people to regulate the matter for them.

We have it in evidence that at present the schools all over Scotland, though they are connected specially with religious bodies, are not conducted in a very bigoted manner: how do you reconcile that fact with the fear you have just expressed?—It is not easy to say. The Church of Scotland has not at any time exercised its powers in a bigoted manner; but I rather think the thing is not absolutely in the power now of the individual churches: their powers are limited.

What limitation, in respect to the religious teaching of a Free Church school, is there on the managing body of that school?—This limitation, that each of the bodies now in competition are anxious to get as many scholars as they can. If they carried the thing to extremity, they would drive the children away from their schools. That would not exist under a national system, because there would be no competing schools then.

You have spoken in regard to the matter of punishment in connexion with the teaching of religion, and it seemed to me that your answer rather implied that there was now some special system of whipping in connexion with the Shorter Catechism: is it a fact that the Shorter Catechism is taught more by whipping than any other branches of instruction?—Much more; because it is much more difficult to learn than anything else that man can conceive.

Is that the fact?—I have seen it myself; it is in my own knowledge; so that every boy almost, who has been brought up in that way, shudders when he hears the Shorter Catechism talked of. It is not generally known that the Church of Scotland never sanctioned the Shorter Catechism. When it first came down, the General Assembly objected to it, as being too long and too difficult.

Is there not a substitute for it in some schools?—There are a great many: Watts' Catechism, and I suppose many others.

Mr. Black.—If this Commission were to recommend a system of education in which religious instruction should be excluded from the school, do you think there is the most distant chance of its being carried through Parliament?—I might ask that question of you, Mr. Black. I know nothing of Parliament.

But you would not recommend us to do a thing which you knew it was impossible to accomplish?—I hope there is sense enough in Parliament to secure the carrying of a thing so reasonable.

The Chairman.—You decline to say whether, failing that, you would not prefer an extension of the denominational system?—I am so opposed to the denominational system in theory, that I think I should rather have any system almost, because I am persuaded that a system radically false in principle must bear innumerable bad fruits. I think any system that anybody would purpose, or that Parliament would sanction, must be better than it.

Mr. Ramsay.—Supposing Parliament passed an Act providing for a system of national schools, and prohibiting religious instruction being given in them, do you think parents in Scotland would take advantage of them?—I can imagine that provision might be made for religious education at other hours; but I cannot imagine that the people of Scotland would be so absurd as to object to a system which prevented religion from being taught at certain hours.

The Chairman.—Are you of opinion that that is a practicable proposal?—Decidedly. I have lived long enough to believe that everything that is reasonable is practicable.

Have you anything else to volunteer to the Commission?—I think not.

Monday, 21st November 1864.

THE DUKE OF ARGYLL IN THE CHAIR.

REV. DR. CANDLISH,—*examined.*

Rev. Dr. Candlish.

The Chairman.—You had a principal share, had you not, in founding, and subsequently in directing, the Education Scheme of the Free Church of Scotland?—Yes; on the part of the Assembly.

Would you state to the Commission how far the Free Church scheme was intended originally to be co-extensive with the congregations of the Church?—I think it may be convenient to call attention to a special report given in to the Commission in August 1855, which was ordered to be printed, and which refers to the origin and progress of the scheme, and with your leave I will read an extract from it:—"The origin of our scheme may be traced to the measures directed against teachers adhering to our principles, and to the adherence, notwithstanding, of a large and valuable body from among them. This will appear evident from the following statement of facts:—(1.) At the Disruption, in May 1843, an Education Committee was appointed, to attend to the interests of schoolmasters adhering to the principles of the Free Church of Scotland. It was well known that not a few members of the profession were determined to cast in their lot with the ministers and congregations who then renounced their connexion with the State, and it was uncertain what effect such a procedure on their part would have on their position and prospects. (2.) At the General Assembly which met in Glasgow, in October 1843, it was reported that 80 parochial teachers, 57 teachers of Assembly schools, and 27 teachers of schools connected with the Society for Propagating Christian Knowledge, had intimated their intention of adhering to the Free Church, besides 196 teachers of privately endowed and adventure schools. It was also ascertained that the teachers, students, and scholars of both the Normal Schools at Edinburgh and Glasgow, had, almost without exception, adhered to the Free Church. The Assembly resolved to prosecute the Education Scheme with energy, and a plan was adopted for raising £50,000, to aid in erecting 500 schoolhouses, in order that there might be, as far as possible, a school attached to every ministerial charge." It thus appears that the Assembly which met in Glasgow in October 1843, received a report from the committee appointed in May, bringing out the number of teachers who had adhered. And that decided the Assembly then to aim at erecting 500 schools;—it being supposed that that was about the number of congregations that would be able to support schools, or that cared to support them.

Then your answer is in the affirmative: the scheme was intended to be co-extensive with the congregations of the Free Church?—Yes.

How far has that intention been carried into effect: how far is it the fact that you have a school in connexion with every congregation?—I cannot give you the exact statistics; but they will be easily got.

Has it been the effect and operation of the central committee in Edinburgh to stimulate the erection of schools in connexion with each congregation?—We have had to repress rather than to encourage. There was such a great eagerness for the erection of schools at that time, that we had difficulty in giving the necessary aid. The central committee did not erect schools; their function was to aid in the erection, and in the support of the teachers.

But they aided in all cases where application was made by local parties?—Under certain conditions.

Had any of these conditions reference to the requirements of the population with reference to other schools?—Yes; that question was always put.

In regard to the outed masters who adhered to the Free Church, the determination to give them a school in their parish must necessarily have led to schools being established in some cases alongside of, or in rivalry with, the old parochial schools?—I am not quite prepared to admit that. We did not in all cases keep the teacher in his locality.

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You sometimes removed the teacher ?—Yes.

Is it not the case, that in some places, particularly in the northern counties, some ministers of the Free Church have objected to their parishioners sending their children to the parish schools ?—I know one who has done so.

Was not that a case in which a member of your Church complained to the Assembly of the conduct of his minister in refusing ordinances to his child, because he had sent others of his children to the parish school ?—Yes ; it came to the Assembly.

What was the action of the Assembly on that complaint ?—It was very decided in blaming the minister ; almost censuring him.

Then, so far as the action of the General Assembly is concerned, the principle has not at all been laid down that it was an offence on the part of a member of your Church to send his children to a parish school ?—Not at all.

What, in your opinion, are the defects of, and the objections to, the present denominational system of distributing public grants in Scotland under the Privy Council arrangements ?—I am prepared to state my own views on that subject ; but I am also prepared to put in some documents which bring out the views of the Church. I speak now my own views. I have never been very forward in disapproving of the denominational system ; it has its advantages, and I admit that these advantages are very considerable. It has this advantage, no doubt, that all the schools supported upon that principle are thoroughly under Church control ; that is to say, that the electors are the office-bearers of the different congregations. The power of dismissal rests with them, and there is a general superintendence by the Church Courts. That is one advantage of the denominational system. And in countries where religious bodies are very much divided in regard to religious teaching, I suppose that the denominational system is the very best that could be adopted. But I have always thought that in Scotland, where there is entire and thorough unanimity in regard to the branches to be taught, both secular and sacred, and the manner of teaching them, the necessity for the denominational system does not exist. If the denominational system were necessary, I could point out perhaps some other advantages ; but seeing that it is not necessary, my opinion has always decidedly and steadily been in favour of a national system in preference to the denominational. I may state some of the objections that occur to me to the denominational system. I believe it labours under this inherent defect, that it is not fitted to reach the lowest strata of the population. We have worked it now for some years, and I venture to say that no denomination has reached the lowest strata of the population. The principle of the system being to help those who to a large extent can help themselves, it seems to me that that interposes an obstruction in the way of its getting down to the lowest classes. Then, again, although it is quite true that the teaching in all our schools (and I include the Established Church schools as well as our own), is quite unsectarian, and that we have numbers of children belonging to the Establishment attending our schools, and a good number of our people attending theirs ; while, therefore, there is nothing sectarian in the teaching of the schools ;—yet the keeping up of the denominational system, I think, tends to cherish a sectarian feeling among the people. And it prevents that harmonious action among the Churches, which I conceive to be so desirable. If a national system were proposed, instead of the denominational, and schools provided in sufficient number, and at a sufficiently low rate of fees to reach the lowest classes, I think there is a noble field for all the Churches—all the Presbyterian Churches especially—to exert themselves in the way of getting the schools filled. My *beau idéal* would just be a good system of schools provided for all the people, and the Churches incited and stimulated to use their influence among the population to get the children to attend. That seems to me the function which the Churches in Scotland might best discharge. The mere planting of a school does not ensure its being filled by those whom you want to fill it ; but I believe if the Churches were relieved of the burden of supporting the schools, and had schools in sufficient numbers provided for the population, they would then be in a position to discharge their proper duty of getting the schools filled.

You have not stated it as an objection to the denominational system that it leads to any excess of schools on the part of the denominational bodies ?—I don't think it does, to any considerable extent. There may be cases where it does, but

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not to any considerable extent, especially under the very strict rules under which the Privy Council grants are administered.

Then you don't think that, as matter of fact, speaking generally, over Scotland, the stimulus given to the rivalry of the different bodies has led to an unnecessary multiplication of schools?—It has led, I believe, to more schools in proportion to the people in one district than another; more schools in a district less necessitous, in proportion to a district more necessitous; but I don't think it has led to any considerable or unnecessary multiplication of schools. I am not, however, in a position to speak particularly to that.

But you are of opinion, that even in those districts where the action of the Churches has been vigilant and strong, the denominational system does not reach the lowest class of the people?—Yes, decidedly.

Why does it not: because the Churches have as much influence under the present system as they would have under any other, in getting the lower classes to send their children?—Because we find it difficult to support these schools. We have been aiming all along in our scheme at a system of home mission or territorial schools. When a home mission or territorial movement is going on, it is greatly the better of having a school connected with it. But it is very difficult to provide the necessary funds for it.

But in cases where you have succeeded in erecting and continuing schools, have you not now the same facility in working on the lower classes to send their children to these schools as you would have under any other system?—Yes, of course; if the schools are suitable in point of cheapness.

Then the failure of the lower classes to send their children to these schools does not depend on the denominational principle, but on something else?—I don't know on what else it depends.

You say the Churches failed to get the lowest class to send their children to the schools?—That is not precisely my statement. I stated that I held the denominational system to labour under a certain disadvantage, because, especially according to the present mode of giving aid from the public funds, it is a system helping only those who can help themselves, in localities where the people can afford a good deal, or localities where the Church can afford a good deal. But with the other burdens which the Church has, it is impossible to multiply sufficiently that class of schools. But the real test of the thing would be just to take certain districts or localities in Scotland, and to ascertain how far education is provided for and taken advantage of by the lowest class.

What is your opinion as to the possibility of superseding the present denominational system in Scotland by a national system?—I have never been able to see any very serious difficulty in that, provided only the parties concerned were disposed somewhat to liberalize the existing parish schools; to open up the management of them somewhat.

What are the principal conditions which you think indispensable to a national system, which you would accept as a substitute for the present denominational system?—That is rather a wide question. I think, without any exception, we have for the most part approved of all the attempts that have been made by the Lord Advocate to introduce a national measure. Even as to the last attempt, which was perhaps the least popular of all the Lord Advocate's attempts, after an interview with his Lordship, the Commission of our Free Church substantially approved of it, with certain modifications.

As regards religious instruction, are you content to leave the whole matter to the management of the local parties—ratepayers and others—who may be constituted a committee of management in each parish?—Upon that subject my views have, I must say, undergone a little modification, in consequence of the extreme difficulty of getting that question settled otherwise than in the way your Grace indicates. I have a document here, stating the views which I held, and which were held by a deputation of our Church, as far back as 1853, when the question was raised, under the Act 43 George III. cap. 54, 11th June 1803, as to the salaries of parochial schoolmasters for the quarter of a century after 1853. Our Church appointed a deputation, of which I was a member, to go to London to remonstrate against any increase of the salaries of the parish teachers beyond the provisions of that Act, unless it was accompanied with an opening up of the parish schools to other denominations. And we then submitted to Government propositions bearing upon the sort of security that we would like to have for the

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religious teaching. With the leave of the Commission, I will lodge this paper, as explaining our views then.

Was that an authorized statement of the opinions of the Free Church?—It was an authorized statement by the deputation who then represented the Free Church in London. We took it upon ourselves. The provision, as regards religious instruction, which we then suggested, upon good legal authority, was simply this: "That in all schools to be recognised as national, the religious instruction shall be in accordance with that hitherto and now in use to be given in the parish schools."

Was that as a statutory provision?—Yes, we indicated that that, as a statutory provision, would entirely meet our views. The difficulty which we were always met with in regard to a statutory provision for religious instruction was, that the mention of the Bible and Shorter Catechism called forth objections among a certain class of statesmen. And on consulting legal authority, we ascertained that the phrase, "to give religious instruction in the manner hitherto in use in the parish schools," would entirely cover the case, and secure the religious teaching according to use and wont, that is to say, the Bible and the Shorter Catechism.

But I must say that I am prepared almost to answer your Grace's question now in the affirmative, subject to two explanations. The one is, that we have a good trustworthy system of licensing teachers, that is to say, that no teacher should be held eligible who was not licensed by a competent body; a body perhaps connected with the Universities, and also properly recognising the Teachers' Association. And I would have no objection whatever that the candidate for examination should attend one or other of the Normal Schools sanctioned by Government, and that he should receive a license from a body which the community generally could trust. That is one condition which I would attach. The other is, that we had some effective mode of dismissal.

With reference to the license, would you have the examination of the schoolmaster by this licensing body to include examination in his religious knowledge,—do you wish to have the certificate given by the licensing body to be a certificate of religious competency?—No, I really would not insist on that. I would trust the licensing body.

Their examination would be entirely with reference to secular education?—I would leave that to them.

What is the nature of the examining body that you would trust with such a large power as that?—It does not appear to be a very large power after all; but, as I understand, there is substantially a licensing body just now connected with the Universities; I think a little additional blood in that body would meet the case. The teachers, for instance, complain of not being represented in that body, and I think with some justice, especially seeing that they are now recognised by law as an organized body.

Then you would be content with an Act which provided no statutory security whatever for religious instruction?—I confess I would; not that I would not prefer another, by all means I would prefer another, but I would take that, with these qualifications.

Would you be prepared to accept in the Act of Parliament a clause which should legalize what is in fact the existing practice in all the schools of Scotland, viz., that the children of Dissenters (and I mean by Dissenters, people who dissent from the majority) should have the benefit of the secular education, without their children going through the religious instruction given in the schools?—I would insist on a clause to that effect.

Answering to the conscience clause in England?—Yes. In reference to a previous question, I should say that I do not for my part see any difficulty in having something in regard to teachers analogous to what you have in regard to professors: something that shall secure that they don't abuse their office for the purpose of undermining the Established Church, or undermining religion. I would have no objection to a clause to that effect; the rather, because if there was a proper power of dismissal, it would make a complaint thereanent a relevant ground of dismissal.

Would you be disposed to insist upon such a clause?—No, I would not be disposed to insist on it, but I would like it.

You would attach some value to it?—Yes.

How far do you think the religious instruction which is now given in the

denominational schools is a really good and effective religious education?—I don't think it possible to give in any such schools a really good and effective religious education; you cannot secure that. But I believe that in all our Free Church schools, and I would make the same remark in regard to the parochial schools, the religious instruction given is fifty times better than it ever was before—at least in modern times; and I ascribe that very much to the system of training in the Normal Schools. I would not limit the remark to the Free Church teachers. The men who go out as teachers are better qualified and more disposed to give religious instruction in the right spirit than the old class of schoolmasters were. Rev. Dr. Candlish.

It being your opinion that the religious education given in the common schools is more or less defective, are you of opinion that it would be made more effective by being taken out of the hands of the ordinary schoolmasters altogether, and left to the clergy and Sabbath-school teachers?—Quite the reverse.

You would not approve of a system which delegated to the Churches, as such, the religious instruction of the children?—I would oppose it with all my might. I think it of the last importance that the teacher in the common school should teach religion, so far as his time will permit.

Don't you think that, as far as regards the effectiveness of religious instruction, the system which should leave it to the various Churches to do it through their clergy, and through Sabbath schools, would be as effective as any other?—Of course, the teaching of the Churches, in Sabbath schools and otherwise, is invaluable, and very necessary; but I think the connecting of religious instruction, more or less, with the common teaching under the master, is a very important feature; and I have known instances in more than one school of real spiritual good done by the master of the school. I should regret exceedingly to see the teachers of our schools relieved of the duty of giving religious instruction.

Don't you think that a system which should separate them altogether, and leave the religious instruction to the Churches, as such, might, as a result, be a far more sectarian system of teaching than that which now exists?—I don't think there would be more sectarianism in it, but it tends to be more sectarian, I admit. The Presbyterian Churches just give the same religious instruction.

They do that where the instruction is given in common?—Yes.

But under a new system, where the instruction is given separately, might there not be a temptation to give instruction in sectarian tenets?—There might be.

You don't think that any measure would be likely to receive support in Scotland, which, on this ground or any other, excluded religious instruction from the common schools?—I don't think it would.

You have already indicated your opinion, that in any new measure it is of importance to include the parish schools?—Yes.

I wish to know how far you consider it an essential part of the new system that there should be a farther alteration, there having been already an alteration in the constitution of the parish schools?—I am disposed to think that some farther alteration is really necessary, if we are to hold the question as being settled. And I would take the liberty of urging that as a consideration that ought to have great weight, viz., the importance, indeed the necessity, of having this education question settled once for all for Scotland, so that we may know where we are, and be free from the perpetual liability to change. I say frankly, that a measure which did not liberalize the parish schools a little more than they are now, would not settle the question. It might be accepted *ad interim*, but it would inevitably lead to future agitation almost immediately. I don't think it possible to settle the question for any considerable time, without some change in the parish schools, beyond what they have already undergone.

By liberalizing the parish schools, you mean rendering more popular the managing body?—Just so; the electoral and managing body.

You don't mean to imply that in the conduct of the schools, there is anything illiberal in regard to the teaching?—I have already said there is nothing sectarian in any of our schools.

You mean that the managing body should be made more wide and popular?—Precisely.

What is the nature of the managing body that you would constitute for the management of the parish schools?—I think there should be a fair representation of the popular mind of the district.

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Of the ratepayers?—Or the parents; but I suppose the ratepayers would be a reasonable thing. As long as the parish school was simply supported by the heritors, I think something might be plausibly said in favour of the heritors being the managing body, although even then the parish school could not be held to be a mere part of the Established Church. The parish schools are national; and even then I would have advocated an extension of the elective and managing body. But if the parish schools are to receive aid, either from the Privy Council grants or from rates, then I think the plea becomes irresistible that the management ought to be more popular.

Is it a representation of the parentage that you would principally insist upon, added to the existing management?—I am not particular. I would take the ratepayers; I have not the slightest objection to them. But I am not sufficiently informed about who the ratepayers are, or about what is the number of them. I would make my answer quite general, that I would be satisfied with anything that sufficiently represented the popular mind of the district,—the mind of those who send their children to school.

I understand you to say, that though you and others might accept as an *interim* measure a national system, applying only to the non-parochial schools, you would consider no measure a settlement of the matter which did not assume the old parish schools as the foundation and nucleus of the system?—Very decidedly.

If such a system as you appear to approve of cannot be obtained, and the denominational system is to be continued, what opinion have you as to the merits of the New Code, as compared with the old?—I am not prepared to speak particularly upon that subject, for I have not much knowledge about it. I ceased to be convener of our Education Committee just about the time when the Revised Code came into operation, and I have not paid much attention to our schools since that time. I have a document, which I shall also ask leave to lodge, giving a report on the subject of the Revised Code, drawn up by a sub-committee of the Education Committee, and approved of, taking a general view of the objections to the Revised Code, and the working of it. I think there are many things in the Revised Code that approve themselves to any practical educationist. I have not the least objection to testing results, provided it be done fairly, but I hear teachers up and down complain grievously of the way in which results are tested. There is one general remark I would make, viz., to deprecate the tendency of the Revised Code to lower the style of teaching in our common schools. There is a great difference between common schools in Scotland and common schools in England. We always aim at having our common schools in Scotland, parochial and others, so conducted, that promising youths may there learn the rudiments of education which may fit them for College. That has been the Scotch system from time immemorial, and it is perfectly distinct from the English practice. We have always aimed at having our schools in relation to the Universities. We want what John Knox insisted on so much, a good system of intermediate and grammar schools; but all along we have aimed at getting the teaching in the common schools kept up to that mark. And as long as I managed the affairs of the Education Committee and the Normal Schools, we had an incessant fight with the Privy Council Committee to get them to understand that principle. It was with the utmost difficulty that we could get them to see the importance of keeping up, in our Normal Schools and our common schools, the teaching of the elements of Latin and Greek. But we succeeded in getting them to recognise it more or less. The Revised Code seems to me to tend in a retrograde direction, and rather to put a premium on the teaching of the mere elements of an English education, and to discourage the teaching of the other branches. That, of course, might easily be remedied by adapting the Revised Code a little more to our Scotch views.

That answer bears on another point on which I wish to ask you a question: whether you think the influence of the New Code adverse to Scotch education in this respect, that it establishes a very sharp distinction between the classes of society, being strictly intended to provide for the education of the working classes?—I was just going on to state that as my second objection to the Revised Code, viz., that it ignores another principle of our Scotch popular education, which is, that different classes should be educated together, and I hold that to be of great importance. Besides, the difficulty of distinguishing classes

in the school is almost insuperable in many cases. There is a school connected with my congregation, attended by between 600 and 700 children. It is in Queensferry Street, and that school stood at the very head of the schools under Government inspection for many years; but on trying to adapt the Revised Code to it, we found it so exceedingly difficult, that we cut the connexion, and severed ourselves from Government altogether. We found it so exceedingly invidious to be inquiring who the parents were who came under the class indicated by the Revised Code, that we gave up the attempt. Rev. Dr. Candlish.

It has been the system in Scotland for the children of the middle classes and the working classes to attend in common?—Yes.

And you attach great value to that mixed system?—Very great value.

In any improved system of education for Scotland, whether under an amended administration of the Privy Council grants, or under a national system, you would have the public money given not merely irrespective of Churches, but irrespective of classes of society?—Certainly.

You would have it given to support schools which were effective schools, without reference to the classes of society educated therein?—Of course, I would not have the public money given to support such a school as the Circus Place school, or other schools of that class.

Academies you mean?—Academies and proprietary schools for the higher classes. Any system that is framed would practically exclude all these schools; but with that reservation, I quite agree with your Grace.

You think it important, as regards the common schools of the country, that it should be entirely irrespective of the classes of society?—I think so. I think the idea of introducing an invidious distinction between children attending the same school, and stigmatizing one class of them as the children of poor parents, and letting the others off as the children of a better class, is fraught with great mischief, and would tend ultimately to drive away the better class from the schools altogether.

As to the Normal Schools, what effect will the New Code have upon them?—For reasons I have stated, I am not in a position to answer that question particularly. But I had a very intimate connexion with our Normal School for many years, and if the Commission wish information on the subject, I will be very glad to give it, but I am not prepared to-day on that point.

Don't you think it would be easy, considering the community of doctrine which exists between the various Presbyterian bodies in Scotland, to have a common system of Normal Schools, even if we had not a common system of country schools?—I scarcely think so.

Don't you think that two Normal Schools in Glasgow and two in Edinburgh are an unnecessary number, more especially as they contain scholars of all denominations?—If the Normal Schools were adopted as part and parcel of a national system, always with that proviso, I can see a way by which the four Normal Schools might be turned to immense advantage, viz., by setting apart two of them for male students, and two of them for female students; separating the young women, as students, from the young men. I believe some of our best educationists, including the late Mr. John Gibson, and others, have been so far in favour of that.

But if the denominational system were continued, you don't see your way to the amalgamation of the Normal Schools?—No; on the contrary, if a national system were adopted, I don't think it would work ill just to leave the Normal Schools alone, and give them no Government aid at all; only have them under Government inspection, and require attendance on one or other of them as preliminary to getting license. I believe if a good national system was adopted, and a good licensing body provided, you might leave all questions alone as to where the teachers get their training.

You would leave it to the ordinary laws of demand and supply?—Yes; only requiring attendance at a Normal School approved by Government. But I have always been inclined to think that the Normal Schools might be left to provide themselves if a good national system were got.

What is your impression as to the urgency of the case for an improved system of education in Scotland; I mean with reference to the existing defects of education, and the impossibility of getting the present system to overtake the population?—I may perhaps best answer that question by referring to what I know best, that is

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to say, the effect of the present state of things on our own Education Scheme. Your Grace has brought out that we, in the Assembly of 1843, really did intend to make our scheme commensurate with our existing congregations; and accordingly a plan was formed for assisting in building 500 schools. But we did not at all limit our views to that. We contemplated extending our scheme, not upon the principle of rivalry with other bodies, but on the principle of providing schools where they were necessary for the wants of the population. We have avowed all that in the document to which I have already referred, supplemented by a report to the General Assembly of 1849. We were very anxious that our Education Scheme should be prosecuted, not only in the way of supporting schools as connected with congregations, but also in the way of supporting schools in large towns and populous districts. We have had considerable difficulty in working our Education Scheme even up to the extent which it had reached several years ago, inasmuch as we have been making very little progress; establishing a few schools in connexion with Home Mission and Territorial movements, but not going ahead as we would like in providing schools where they are needed. I have no hesitation in saying, that what has laid an arrest on our movement, in so far as it might have been a really patriotic movement, and a movement for good to the country, is just the unsettled state of the public mind in regard to this very matter of a national education. We have found among our ministers, and among our people, that that is a real cause of the difficulty we have in raising funds and extending our operations where they would do real good to the country. Now, I again say that it is the very worst thing for education in Scotland just now to have this question unsettled. I believe that operates with other denominations as well as ours, and it is of the very last consequence that, if possible, this question should now be settled. On that account, I may be allowed to say that I hailed with very lively satisfaction this Commission, and if you will allow me to say, the constitution of it; because I have the strongest conviction that if the members of this Commission see their way to agree unanimously upon any mode of settlement, there will be the utmost disposition in the country to acquiesce in it.

Do you think that if there should be any failure in procuring a national system such as you have shadowed forth, the denominational system could then be worked with increased energy and effect?—I believe so; always with the qualification that the unsettledness of the question would remain.

But as matters now stand, do you think it of very great consequence for the education of the people of Scotland that it should be settled, and if possible in the shape of a national system, which would overtake the whole population?—Yes.

And you think it very difficult for the denominations to undertake the whole field under any circumstances?—Yes.

Mr. Dunlop.—Supposing the immediate dread of change to be taken away, you would anticipate greater efforts on the part of the people to provide the necessary funds?—I believe if we were practically told that there was to be no change for a series of years, that would enable us to work our scheme.

Even then, if you were set free from that dread, do you think that you and the other bodies could adequately supply the deficiency?—In so far as the inherent defects under which the denominational system labours would admit of it.

Is there any other ecclesiastical superintendence in your schools, besides that of the Deacons' Court, or the office-bearers of the congregation?—They are visited by the Presbyteries; and it is understood that the minister also visits the school.

Do they exercise any authority or jurisdiction?—Only in so far as the teacher may come within the reach of discipline as a member of the Church.

Not as a schoolmaster?—Not *qua* schoolmaster.

Does the establishment of middle schools form a part of what you would consider essential for any right national scheme of education?—I think so; and I would supplement my former answer here. The establishment of middle or grammar schools formed part of our plan, and we had fixed upon places where we would plant grammar schools. We did succeed in planting one or two,—one at Inverness, and one at Hamilton; and our intention was to have had them in different districts, so that the better scholars might have middle-class education within their reach; but we have not been able to carry that out.

Would you consider Government aid essential to the due support of schools of that kind?—I would not like to give my opinion on that. I don't know how far the

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burghs in which they would be situated might not support them by assessment; but some public support is indispensable.

You think something beyond voluntary contribution essential?—Decidedly.

As to the Normal Schools, you think they might be left to themselves: do you anticipate that the students would be willing to pay so far for their education as to enable such institutions to be carried on with such aid as the Church can give them?—Yes, I think so. The Church might be in a position to aid these schools.

On such a footing, do you think the students would probably be of a better class than they are now?—I think so.

Lord Jerviswoode.—You have said that the present system does not bring out the poorest class of children: what security would you have that the class who don't now send their children to school would do so under a national system?—I would rely mainly upon the missionary and territorial efforts of the Churches for that; I think it is there that the efforts of ministers and congregations and Churches would come in with great power.

I suppose you consider that at present it is the want of inclination and desire on the part of parents to send their children to school, that leads to a great deal of the non-attendance of the poorer classes?—A good deal. There are other causes; being taken early to work is one cause.

You would not propose any compulsory plan?—I have never seen my way to approve of that; but I don't know that some *compulsitor* might not be put in the way of preventing children from being employed in any way until they had passed an examination in reading and writing.

I suppose it is chiefly in the large towns that the non-attendance is most marked?—I should say that is the case in large towns, and I believe that Mr. M'Lauchlan can speak on the subject with reference to the Highlands. I believe that in the large and populous manufacturing districts, such as Airdrie and the mining parts of Ayrshire, a great deal of destitution would be found. And I would take the liberty of saying here that I don't attach great importance to, or put much faith in, merely ascertaining what proportion of the population are at school; because men have their various ways of reckoning that. But I think it would bring out the educational destitution far better if specimen localities were taken, say in the poorer districts of Glasgow or of Edinburgh,—a certain number of families,—and also in the mining and manufacturing districts; for if, by a personal examination, house by house, the fact were ascertained how many could read and how many could not, I believe it would bring out most valuable results. Simple specimens might be taken in various localities.

Would it not be useful to extend that inquiry to country parishes, and perhaps to the whole country?—I see no objection to that, except the trouble.

I understood you to say that you thought greater facilities should be given for the dismissal of schoolmasters than at present exist?—Yes, I think so.

Do you, notwithstanding that opinion, hold that the appointment should be for life, in the first instance?—I cannot say that I have very thoroughly studied that question, but I incline to the opinion that the appointment should be for life, *—ad vitam aut culpam*, as we say. I am quite prepared, however, to recognise a power of dismissal in some competent body, which would fairly secure the teachers against caprice or hardship. It has sometimes occurred to me and to others, that a power of dismissal in the electoral body, subject to an appeal to a supreme court, might be a practicable way of working it. I think if the electoral body, for example, had the power of dismissal for cause shown, and the teacher had the right of carrying the matter to a competent body—the Privy Council if you choose,—who would confirm or disallow the decision of the electoral body, that would secure the teacher against all hardship, and provide for the easy dismissal of him, if he was an unsuitable man.

Do you think the power of dismissal should be only for cause stated?—I think so.

You said that the teaching of Latin, and the classics generally, in the parish schools in Scotland, was useful in enabling the scholars to go to College: has it not also been found useful as a general subject of education among the poorer classes in Scotland, though they don't intend ultimately to go to College?—Very decidedly.

There are various professions in which the knowledge of Latin is found to enable them to get forward in life?—Yes, decidedly.

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Mr. Cook.—You are in favour of a national system?—Yes.

You are aware that the present system of the parish schools was established by Act of Parliament?—Yes.

How is it not a national system?—I hold it to be a national system at present. I hold strongly that the national schools are national property, and ought to be under national management.

You consider the present system a national system?—So far as they are concerned, but not *quoad ultra*. I understand the question to relate to a national system that would supersede the denominational. At present, of course, we have both a national system, in the parish schools, and a denominational system outside.

Then we have at present a national system, though one which you think in some respects defective?—Certainly; and very valuable as a nucleus.

Would it not serve your purpose to extend and amend the present system of parish schools?—Thoroughly. I understand any opinion which I gave to be exactly to that effect,—that the parish school system, extended and amended, would meet all the wants of Scotland.

Has it not always been reckoned an object by the Reformed Presbyterian Church in Scotland, to have a system of schools in connexion with the Church, and, to a certain extent, under its management?—Unquestionably that has been the theory of the Presbyterian Church up to recent times.

And you acted upon that theory when the Free Church was instituted in 1843?—We acted upon that theory, subject to this explanation: that I have documents here bringing out that, from the very first, our Church has indicated over and over again that she welcomes a national system, and prefers it, and would waive her denominational system in its favour.

But still, when the Free Church was instituted in 1843, it was considered an object by that Church to have an establishment of schools in connexion with it, and under its supervision?—But always with that reservation.

But, with that reservation, it was reckoned an object, and, in point of fact, you attempted to introduce such an establishment?—Yes.

Do you think the Free Church is now prepared to acquiesce in a system under which there should be no ecclesiastical superintendence of the schools?—I think so.

I suppose you are not prepared to give any opinion as to whether the Established Church would acquiesce in that?—The more reasonable part of them would.

You said one of your objections to a denominational system was, that it did not reach the lowest classes of the people: that objection doesn't apply to the present establishment of parish schools, provided it were made sufficiently extensive?—Certainly not.

Mr. Mure.—I understood you to say that you thought you could not dispense with the two Normal Schools in Edinburgh and the two in Glasgow,—that they were necessary under the present Privy Council arrangements?—I said I saw a way in which the schools could be utilized or made available, but not that they are necessary. I think we could do, perhaps, with two Normal Schools, one in Edinburgh and one in Glasgow.

The Normal Schools are at present, I understand, attended by scholars who don't necessarily belong to the Church which the school is connected with?—That applies to the elementary department, not to the normal department. There may be cases, but they are very exceptional. We may have an Established Church student in our school, and they may have a Free Church student in theirs, but, as a rule, the normal departments are quite distinct.

Do you think it necessary that that system should be continued, connecting it with the fact that the parish schoolmasters are now eligible from any denomination?—I would be inclined to oppose any attempt to amalgamate the Normal Schools; as long as we are compelled to keep up our denominational schools, I think separate Normal Schools follow as a matter of course.

And you think you could not economize that branch of the Privy Council work, by having a school for the education of teachers of all denominations in each of the four University towns,—Edinburgh, Glasgow, Aberdeen, and St. Andrews?—You would require to show me the constitution. I can imagine a constitution provided, but not satisfactorily. According to the statistics of the census of 1851, the Free Church have 712 schools; and so long as we have these substantially under Church management, for the teaching in which we as a Church are responsible, we would keep up our Normal Schools.

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I understood you to say that, if there was a national system introduced, you thought the Normal Schools might be entirely dispensed with, leaving it to the students to educate themselves?—I have always thought so.

Is it not the case that the aid which the Privy Council system now gives to the scholars of these schools, in the normal department, is the means of enabling a great many young men to get educated as teachers, who, if they were obliged to come from the country to Edinburgh or Glasgow, and to live at their own expense, would find the greatest difficulty in procuring the necessary education?—That is quite true.

And don't you think that if the Government grant were withdrawn from Normal Schools, even assuming a national system to be introduced, you would interpose in that way a barrier to the education of many as teachers who are eminently qualified for the office?—My impression is, that the Government grant has brought up too many of that class; and if the Normal Schools were left to themselves, I believe that the Church would look after the education of deserving young men.

Do you mean the church in the locality from which the young man came?—Or the Church at large. We have scholarships in our Normal Schools for deserving lads, over and above what the Government give.

If the Normal Schools were left to themselves, under a national system, would the superintendence of either of the Churches not be practically at an end?—Not at all.

You would have them left just as they are now, belonging to their respective Churches?—Yes, and approved of by Government; but I am not arguing very strenuously against the Normal Schools being included in a national system.

Do you see your way, under a national system, to any ecclesiastical superintendence being arranged, by means of people selected from the different Presbyteries of the bounds, by some public body, such as the University Court, or something of that sort?—I would certainly not object to any provision of that sort; if it could be managed in a fair and impartial way, I think it would probably be a benefit. I think certainly all the Presbyterian ministers should have the right of inspecting the schools; and if such a body as you indicate could be fairly constituted, representing the Presbyteries of the Churches, I would not object to that. I think it would work well.

Mr. Davidson.—It is of importance, in your view, that religious teaching in all the schools should be a necessary part of the education: in parts of the country, where a large number of the people were Episcopalians or Roman Catholics, how would you deal with the religious teaching in the national schools?—I confess I have always been inclined to look at the national system as a Presbyterian system so far. But I have always recognised the necessity of some provision for outsiders, as it were. It would not be easy, and I don't know that it would be fair, to propose for Scotland a national system, properly so called, that was not Presbyterian, with, however, a margin for non-Presbyterian bodies. The mass of the population being Presbyterian, I think the legitimate and the simplest way of meeting the problem is to make the education Presbyterian substantially. But in the event of what was spoken of, viz., there being no statutory provision for religious teaching, but our trusting to the licensing body and to the electoral body, if well constituted, your question would scarcely arise. The religious teaching would adapt itself naturally to the state of the district.

Supposing that a large body of Episcopalians in a parish objected to the teaching of the Scotch Catechism, would the licensing system which you have proposed meet that case, or how would the master adapt his religious teaching to that case?—That is so far provided under the system common to all our schools in Scotland, of not enforcing attendance upon the religious teaching.

Does not the non-enforcement of attendance at religious teaching mean that those whose attendance is not enforced are not the religiously taught in the schools?—Certainly.

My question pointed at this: how under a national system they are to be taught in the schools,—is there any mode which suggests itself to you by which that could be done?—I am not prepared to make any suggestion on that point just now; but I can conceive it being done in certain cases, by allowing any Protestant minister to give instruction. I am not prepared, however, to give any opinion upon that.

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Do you mean that there would be no objection to allow the children who were not Presbyterians to be taught religion by the clergyman, or some other person of their own denomination, in the school?—I am not prepared to answer that question affirmatively. It might be quite possible to make an equitable arrangement to that effect. But I have always thought that our attention must be called to the question of a national education, under the idea that non-Presbyterian bodies must be helped in some other way. The difficulty of answering your question obviously arises in putting the case of the Roman Catholics. It is whether we would acquiesce in a Roman Catholic priest being allowed to teach in a national school.

Then I understand you have a difficulty in regard to Episcopalians, and a positive objection in regard to Roman Catholics?—The latter is the chief difficulty.

Would your plan be this, that, in regard to these outsiders, the denominational system should continue?—I think so; I think you cannot well meet their case otherwise.

Then you would say that any system of national education which is to embrace everybody, must be exclusive of the Episcopalians and Roman Catholics?—So far; but there are districts of the country where I believe the Episcopalians, instead of setting up a school of their own, would avail themselves of our schools. We have Episcopalians and Roman Catholics attending Free Church schools, and they never make any difficulty about the Bible or Shorter Catechism.

You stated that you would have no objection to the present examining body, if additional blood were put into it?—I stated that in an off-hand way. I am not prepared to constitute a licensing body; but I would like it to be connected with the University certainly; the organized body of schoolmasters should also have some representation in it; and I would have no objection whatever, if it could be arranged that the different Presbyterian Churches had also some voice in the matter; but that might be difficult to arrange, and I might be satisfied with something short of it.

Sir J. Fergusson.—Do you think that the Free Church would be satisfied with a national system, if their Presbyteries were allowed to examine the parish schools at their discretion, without any farther change?—Certainly not.

The Lord Advocate.—Would the Free Church have set up their Education Scheme if the test in the parish schools had been abolished in 1843?—I should say decidedly not. I will go a little further, and I will say that it would not have been done if the teachers had not been ejected. But we found ourselves at the Disruption with the whole of the Normal Schools on our shoulders, all the teachers, all the pupils and students, with scarcely an exception. We found ourselves with a body of Assembly teachers, and Society teachers, and parish school teachers, amounting to 122. We could not turn these men adrift. That led to the question being considered: shall we provide for them in the way of aliment, or in the way of making their services available? The moment we decided in favour of the latter plan, a larger aspect of the case presented itself. And accordingly, in 1847, which may be held as the starting of our scheme on a new footing;—that is to say, we then adopted a different mode of getting funds, and then resolved to avail ourselves of Government aid;—we contemplated the extension of our scheme. In that year we discussed in the General Assembly the question of receiving national grants, and by a very large majority we carried a motion in favour of availing ourselves of the Privy Council grants, but embodying a very strong resolution in favour of a national measure. We appointed a deputation to proceed to London, in 1847, to have a conference with Lord Lansdowne and the Privy Council Committee. And the first instruction which the Assembly gave to that deputation was to urge the practicability in Scotland, and the desirability, of a national system superseding all these grants. We had a long meeting with the Privy Council Committee as to the terms on which the grants were then arranged, a report of which was drawn up and submitted to Lord Lansdowne, and admitted by him to be correct. I lodge that report in evidence, as showing the terms on which they were to give grants, and in particular, as dealing with the question of what evidence they would require that a school was necessary.[1]

Then, as I understand, if the masters had not been ejected, you would have contented yourselves with agitating for a more liberal constitution of the national system?—I think so, decidedly.

[1] This Paper is in Minutes of Council on Education, 1848-1849.

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You have already said you don't think the number of schools set up by the Free Church are superfluous, speaking in the general?—Yes. It is right to say that some of our schools have ceased since the opening up of the parish schools; one or two of our teachers have been appointed to the parish schools.

If the Free Church had not set up its system, the national system would have been deficient in supplying the means of education, by the number of schools that the Free Church has set up?—I think so most unquestionably, unless indeed the National Church had done a great deal more than it has done. Our schools, of course, stand on the same footing with their Assembly schools.

So that, but for the Free Church setting up these schools, by voluntary contribution, aided by the State, we should now have been considering in what way the wants of the nation were to be supplied?—Yes, under great disadvantages.

You would be content with an infusion of the popular voice into the constitution of the parish schools?—Yes.

You have said that the Free Church has supported most of the measures proposed in connexion with educational reform?—Yes. Resolutions were adopted on the subject in 1847, as I have shown. And I have here rather a curious document. It originated in a meeting of ministers and elders connected with the Free Church. And when I read the names of some of these brethren, you will see what weight it is entitled to,—Dr. Cunningham, Dr. James Buchanan, Dr. Bannerman, Dr. Robert Gordon, Dr. Hetherington, Mr. Sym, Mr. Monteath, Mr. Paul, Dr. Wood, etc. Thus, so far back as 1851, we took it upon ourselves to suggest a cut-and-dry national plan. And one of our number actually prepared the heads of a proposed Act, which we submitted to the Privy Council Committee. It never went much further. But I have no objection to lodge it now.

The Chairman.—You don't wish to lodge it as a document that you adhere to now, as explaining the conditions which you are willing to consent to?—Not at all. I would not like to be held committed to everything in it. On the occasion of the Revised Code being issued, a committee, specially appointed to watch over the question of national education, met and made a report to the Commission in October 1861, which I shall lay on the table. In that report, while stating generally their views in regard to the Revised Code very shortly, there is an elaborate pleading against the present system altogether, and in favour of a national system.

The Lord Advocate.—The last bill that was proposed divided the schools into three: the existing parish schools, rural schools to be established in the rural districts in addition to the parish schools, and district schools in populous places. In regard to the parish schools, it was proposed to leave the management as it is; in regard to the rural schools, it was proposed to put these additional schools under the present management of the parish schools; and in regard to the district schools, it was proposed to constitute a certain representation from the ratepayers. I understand that the Free Church did not object to the first part of the proposition, viz., leaving the parish schools as they were, but they did object to the proposal to put the rural schools under the existing parochial management:—I want to know whether, supposing the new schools in rural districts had been placed under a management satisfactory, the rest of that bill would have met with the approbation of yourself and the Free Church?—I believe most of us would have accepted it as an instalment. I would have accepted it in this belief, that if you set up 1000 or 1500 schools, popularly constituted, outside of the parish schools, the present system of management would not have been worth many years' purchase.

The Chairman.—There was a provision in the bill giving power to the heritors to place the parish schools under the new system?—Yes, that was very important.

The Lord Advocate.—You think the example of the popular constitution outside would soon have acted on the other schools?—Yes. I hold in my hand, and with your leave I will lodge, a report given in to the Commission on 1st May 1862, on the subject of your bill. The report simply consists of the narrative of an interview which the deputation had with your Lordship. That report was approved of. And it explains exactly what modifications we insisted on.

If, instead of taking it as an instalment, it were desired to make the constitution of the parish schools such as might be permanently acceptable, would it meet with your approval if a representation of the ratepayers were added to the

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heritors, and no other change made on the constitution?—I think it would be a reasonable thing, either that the exclusive privilege of the parish minister should cease, or that other Presbyterian ministers in the district should have the same privilege.

To what extent would you make that essential, looking to the matter as a settlement of the question?—For my part, I would not care much about it. Of course, the other ministers would be eligible, and I would think it fair enough that the parish minister should be on the same footing eligible equally with his brethren; but I don't attach any importance to that.

Supposing the ratepayers were allowed to name or elect two or three members to act along with the heritors in regard to the function which they discharge just now with reference to the parish schools, would that meet your views?—I think to a large extent it would. Of course, where there was a larger body of heritors, the ratepayers would need a larger representation.

Have you the least idea that that infusion of representatives of the ratepayers would interfere with the due management of the school in any way?—It would improve the management.

You would have no fear of popular commotion?—Not the slightest.

What do you say to the state of the northern counties, as they are at present? Take the county of Sutherland, where there is only one heritor, and where in every parish the parish minister and the heritor's factor are the only people who have anything to say as to the schools at all: do you think anything can be said in justification of management of that kind?—It is a good despotism.

You are aware that the practical result of it is, that the parish schools are not attended at all, and that the whole population goes to the Free Church schools?—In many instances; but you will get better evidence of that.

But you are aware that there is that great feature in the north?—Yes.

Do you think that a representation of the ratepayers, such as I have suggested, would meet the difficulty there; I mean, would the Free Church population be willing to go to the parish schools on these conditions?—I should think so.

By ratepayers I mean those who are rated for the poor-rate: if something like what I have stated were done, do you think the people would be content to send their children to the parish schools?—I think so, if Free Churchmen were eligible as masters; on the present footing, in fact; and, of course, I am supposing the teaching made effective.

Then your impression is, that if there was reasonable representation of the people outside the heritors in each parish, to discharge the function now discharged by the heritors, a national system might be built upon that basis?—I think so; very decidedly.

Supposing that were done, do you think you would drop your Education Scheme, or would you divert your efforts into other channels?—That is rather a difficult question to answer in advance. Of course, I can imagine room—less than at present, but still room—for the churches encouraging schools, or for congregations encouraging schools, over and above the national system; and I can imagine home mission and territorial movements, in the way of preparing a school, to be taken on the national system; but I have no doubt whatever that our Church will be quite content to receive no farther public money; and the greater number of our schools might be absorbed at once, I think.

As to the religious difficulty, do you consider it a difficulty at all in Scotland, practically?—No, I do not.

Is it not more a theory than a reality?—A good deal; always with the before-mentioned proviso, that there is a good system of licensing, and a good system of ejection.

Do you think a system should wait till you can bring in Episcopalians and Roman Catholics, or should the system be instituted at once, leaving out Episcopalians and Roman Catholics, and providing for them otherwise?—I think the latter is much more practicable.

In regard to the licensing and examination of schoolmasters, don't you think the new system, set up by the recent Act, a very good one?—Yes, so far as it goes; but I sympathize with the association of teachers being represented.

When were the Normal Schools instituted first in connexion with the Government grants?—I think, so far as the Free Church is concerned, and as a conclusive arrangement, in 1847.

When did the first Normal School begin?—I believe we are mainly indebted to two men for the whole system of Normal School education in Scotland,—Dr. Welsh, and Mr. Stow of Glasgow. Dr. Welsh spent a summer in Germany, about 1835 or 1836, and he came home quite full of the Normal system; he lectured in Glasgow and in Edinburgh, and got such support that they set about a Normal School in Glasgow almost at once. There was a school in Edinburgh called the Sessional School, and that was turned into a Normal School. Rev. Dr. Candlish.

It has been represented by schoolmasters that they have a great dread of being subject to a popular body, as a managing body over them: how do you find that that has operated practically?—I think their dread is unreasonable; and so far as it does exist, I cannot help thinking that it is because they are, to some extent, practically independent just now of all control. I think if it were guarded by this: that any resolution to their prejudice, taken by the managing body, should record a reason, and be subject to the review, say of the Privy Council, they would have no cause to fear. The adventure schools in Scotland are all on a popular footing; and the managing bodies there give no trouble whatever. It is the rarest thing in the world to hear of a misunderstanding between the managing body and the teacher at these adventure schools.

Lord Ardmillan.—Don't you think, that if in some parishes there are two schools, neither of them very well attended, an Established Church school and a Free Church school, it would be of advantage to the general cause of education, to have one strong school, instead of two weak ones?—Clearly; but in many cases the school which you think might be dispensed with, would be very useful as an industrial school.

Or removed to another part of the parish?—Yes.

But as a general rule, I presume you are of opinion that weak schools are very bad things?—Yes. I would rather have a large school, with two teachers, than two small schools.

Are you of opinion that it might be frequently advisable, instead of the pupil-teacher system, to have in some schools a good assistant?—Yes, certainly.

In particular, would not the appointment of a good assistant frequently liberate the principal teacher, so as to enable him to give more time and energy to the higher branches of education in the school?—Yes; I have always thought that a well-worked national system should have a certain elasticity in the management. You could have a gradation in the schools: small schools, attended by under 100 children, taught by one man, and schools attended by 200 or 300, taught by a better-class teacher, with an assistant, and so rising to the grammar schools. I quite agree that it would be a great deal better often to have a large school with a first-rate teacher and assistants.

Suppose this case, which I know has occurred,—a case where there had been an inefficient parochial teacher for a number of years, and that at last, by means of the recent Statute, he had been got rid of, and an efficient teacher got in his place, having children of all denominations attending his school, so that, instead of being a very weak school, it has become a very strong one,—is that not a case in which, supposing a general system adopted, it would be right and fair that a Free Church school in the same village should be superseded or shifted to another locality?—One or two have been already superseded in that way.

And you think it a right thing?—Unquestionably.

I understand you to be decidedly opposed to any statutory exclusion of religious teaching in the school?—Beyond the right of exemption that all parties recognise.

Is not the security to which you look for religious teaching mainly to be found in the personal character of the teacher?—Everything depends upon that; and I believe the Normal Schools, including the Established Church Normal Schools as well as our own, have conferred an immense benefit on the country, religiously as well as secularly, by sending out better men, in the highest sense. In our own Normal School, the students are all engaged, more or less, in home mission work, thereby acquiring the spirit which animates them afterwards. I believe it is the same with the Established Church Normal Schools.

Then you would look on it as of great importance that the election of the teacher should, at least to some extent, be in the hands of those mainly interested in the pupils?—Certainly.

Lord Polwarth.—Would you desire that there should be some other authority,

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with reference to the religious teaching in the schools, than the parents?—No; I have already stated that I am less disposed now than I was at the time to which I have referred, to insist upon a statutory enactment to that effect. I am more disposed to trust that to the electoral body, along with the system of licensing and the facility of checking abuse; but I have already said that I would not object to, but rather approve of some provision, analogous to that in the case of professors, as laying a relevant ground of charge against a man, if he was really becoming very offensive.

You say you require no ecclesiastical supervision of the schools: in what way, then, would you secure religious teaching in connexion with Presbyterian doctrines?—We don't want the teaching of Presbyterian doctrines; we only want the teaching of the Bible and Shorter Catechism, and there is no Presbyterianism there.

In what way would you secure the religious teaching of the children?—I would trust very much to the people having the choice of the teacher. There are a good many adventure schools in Scotland, all of which are managed in that way. There is no provision for religious teaching there, and you will scarcely find one in which the Bible and the Shorter Catechism are not taught. The fact is, the school would be deserted at once if that were not done.

That is the present inclination of the people; but supposing such an inclination not to continue, would it not be the duty of the Church, as well as of the State, to see to the religious teaching?—If you can conceive a change of that sort taking place, then you will require to remodel your whole arrangements, or the Church will require to supplement the national system in some way or other.

You stated that it is very desirable that the higher and lower classes should be taught together?—Not the very highest, but the better class—well-to-do tradesmen, farmers, etc.

Is it possible to carry that out in the very populous parts of large cities?—Perfectly. In the school to which I have already referred, connected with my own congregation, there are 600 or 700 children of all grades, some of them pretty poor, and others of the shopkeeping class.

It is the very poor you wish to educate?—Yes.

Would they be in different departments of the same school?—No; they would mix with one another.

Would you state a little more distinctly what you would propose as the national system?—It has been already put, I think, that the present parish school system, made a little more liberal in regard to the election and management, would be an admirable nucleus for a national system.

And in the towns, the burgh system extended?—Yes; there is very little difficulty about the towns, where you have the Town-Council, as the managing body, already made to your hands.

Have they not got large burgh schools at present?—In some places, but in the largest towns they have none. I am not aware that there is any burgh school in Glasgow or here.

It would require a large additional assessment over the country to carry out your view of a national system?—It would require some assessment.

Lord Ardmillan.—You would not propose to put the assessment on the existing heritors?—No; and I presume some fair proportion of the Government money would be given, as was proposed in the bill of last year, in lieu of the grants.

Lord Belhaven.—Would you define a little more clearly what you mean by liberalizing the parish schools?—I mean simply that over and above the parish minister and the heritors, there should be a fair representation of the people of the district in the body that elects and manages. That is all.

Suppose that to be done, would you consider that the parish school was a very good foundation on which to raise a national system of education?—The very best possible.

Suppose a school formed by subscription or by a rate, but that it was strictly a Protestant school, and that clergymen of all Protestant denominations formed part of it, as well as all persons who chose to subscribe, would you consider that a national system?—So far as the voluntary subscription goes, of course it is not properly a national school; but do you point to a school receiving public money?

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Yes; it would receive public money from the Privy Council grant?—I should suppose that a school so constituted might be held part of a national system.

Do you know of any school existing on that principle?—No, none.

Then I should be very happy to introduce you to one; but take it that a school formed in that way was to be paid by rates, you would consider it a national school?—Yes; but there is surely some ambiguity about that expression. If a national system were formed, based upon the parish school system made a little more liberal, it would be for Parliament to lay down the conditions on which any school could be recognised as a part of that system. If the Act of Parliament made provision for schools being supported, either voluntarily, by subscription, or by rate, that would make all such schools part of the national system.

In that case, what objection could there be to the clergymen of all Protestant denominations, who form part of the governing body, being the ecclesiastical body to superintend the school?—I don't think the ecclesiastical superintendence is possible in that miscellaneous way. I think it is possible by the separate Churches; but I doubt very much whether you could constitute a sort of Presbytery in that way.

You don't know of any such school existing,—a school supported by voluntary subscription, receiving Privy Council aid, in which all the ministers in the district form part in the managing body?—I think that is a first-rate constitution for a school.

The Chairman.—You have spoken of dealing with Roman Catholics, and in certain cases, where they insisted on it, with Episcopalians, as intruders; that is to say, that under a national system, denominational support might be given to these bodies if they insisted on it. But that does not meet the case which may arise under a national system. There are certain parishes in Scotland where these bodies are not outsiders, but where they constitute the great bulk of the population. There is in my own county one parish which I could mention, and an island, almost entirely Roman Catholic. If the conduct of the schools is to be left to the local management of these parishes, how would you deal with the case of Barra, for instance, where the management, including the religious teaching of the common school, would be entirely in the hands of Roman Catholics?—I am not prepared to answer that question just now.

Are you prepared to admit that, under all circumstances, and in all cases, the local parties, whatever Church may be the majority, shall have the management of the local school?—Yes.

With the conscience clause as the only restriction?—Yes.

You are prepared to admit that?—Yes; subject to the conditions I have already mentioned.

Has your attention been called to the increased facilities given under the last Act for the dismissal of schoolmasters?—Yes.

Do you think these facilities are sufficient or insufficient?—I do not recollect them particularly just now.

Would you consider that the mere fact of a teacher failing to secure the attendance of a fair proportion of the children within his parish should be a sufficient cause for his dismissal?—Yes, inefficiency.

As tested by the fact of non-attendance?—I think so. It should be a relevant ground of charge.

Where would you place the power of dismissal?—I have no great objections to trust it to the electoral body, subject to the provision that they shall show cause, and that the teacher, if he think fit, may submit it to the Privy Council, or some other body.

Do you disapprove of the Sheriff having any part in the question?—No, I don't; but some of our friends have an objection to the Sheriff.

You consider the place of a schoolmaster as strictly a trust to be administered for the good of the people?—Clearly so.

And that he ought to lose his place if he fails to perform his duties?—Certainly.

You don't consider him as in the position of a clergyman, or his right as of the nature of a freehold, as many masters appear to do?—Certainly not; but I am not sure about the analogy of a clergyman; it would be better sometimes if they were viewed in the same light.

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As to the northern counties, your answers to the Lord Advocate rather implied that the non-attendance at the parish schools there arose from the fact of their being under the management of a single heritor and the parish minister: are there not many counties in Scotland where there is only a single heritor and the minister, and where there are not the same difficulties as to attendance?—I believe so. I believe there is a very strong Free Church feeling in Sutherland.

The cause of the non-attendance on the parish school may therefore be owing to what may be called the excessive zeal of the Free Church?—Yes; zeal, whether excessive or not.

Mr. Davidson.—Would you desire to see the national system under any control from a central board sitting in Edinburgh, or elsewhere?—I have not considered that question. There must be some body to decide where schools should be planted, and where schools should be continued. Questions of that sort would arise continually.

Lord Ardmillan.—Would you not prefer that that body should be Scottish?—I think so; it would be better that it should be a body sitting in Edinburgh.

Lord Polwarth.—Is that to be a part of the national system?—There must be some body to say what schools should be recognised, whether a central board or the Privy Council Committee.

The Chairman.—You said you did not see your way to any clause making education compulsory on the poor: has your attention ever been called to the clauses in the Factory Acts, which, in respect of factories, do make education compulsory?—I qualified my answer. I said I never could see my way to anything like compulsory education, beyond securing that children should not be employed unless they are able to read and write.

You see no reason why the principle of the Factory Acts should not be applied to rural districts as well as town districts?—None.

You would approve of that as to the education of the poor?—Yes.

Would you desire to see such a clause in a national system?—Yes.

Prohibiting the employment of industrial children, in rural districts as well as in towns, who cannot produce a certificate that they have attended school?—Or rather, who cannot show that they can read and write.

You consider that desirable to be enforced by Statute?—Yes.

Mr. Black.—You stated you had some difficulty about allowing Episcopal scholars to get their religious instruction in the schools, and that you had a positive objection to that in the case of Roman Catholics: would you allow them the use of the school-room, for that purpose, out of school hours?—I would not attach any great importance to that.

Mr. Mure.—I think you said that the training given in the Normal Schools had very much raised the character of teachers, and that that had had an effect over the country?—I think the Normal Schools have improved the character of the teachers, and sent out a far better class of men.

Do you think that the elementary education of Scotland has been improved, where certificated teachers have been appointed, since the Old Code was introduced?—I think decidedly so.

And that the operations of the Code has not tended to make the teachers neglect elementary education?—Not at all.

REV. DR. ROBERT BUCHANAN,—*examined.*

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The Chairman.—To what branches of the inquiry entrusted to the Royal Commission do you wish your examination to be directed?—I have no very full or elaborate statement to make on any of the branches of that inquiry. Within the brief period that has elapsed since I was made aware that I should be asked to give evidence, I have had no time, owing to a constant pressure of other avocations, to prepare myself for going much into detail, or to make any lengthened statement. What I have to say has respect to the three following particulars:—the Revised Code; the system of Government grants, or the denominational principle generally; and, a comprehensive national system.

What have you to say as to the Revised Code?—I consider the objects it has chiefly in view, viz., the securing of a more regular attendance at school on the part of the children, and the obtaining of the highest possible educational results

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for the public money granted, as just and reasonable. But some of the means which it proposes to employ for the gaining of these objects, or in connexion with them, appear to me to be so highly objectionable and injurious, as to make me deprecate strongly the introduction into Scotland of the Revised Code at all.

To what do you refer as being so objectionable in the Revised Code?—To various things. First, and chiefly, I refer to the deteriorating influence which, as it appears to me, it must inevitably exert on the character and quality of our Scottish education. It will do this in various ways, as—(1.) by its new system of teachers' certificates, a system which, so far as its influence extends, takes away from those who are under training for the teacher's office and work, all inducement to acquire any but the commoner and lower branches of instruction. The gradation of certificates which the Revised Code is to supersede, both by the greater money value which the higher certificates yielded, and by the greater professional distinction which they conferred and presented to all the students at our Normal Seminaries a powerful stimulus to perfect their own education, and to fit them for carrying out our old Scottish system of affording to the children even of our humblest schools, the opportunity of reaching those higher branches of instruction that might open their way to rise in the world. The Revised Code, by changing all this, and by having no certificate of qualification but one, and that one the very lowest, would tend to drag all teachers down to that inferior level, and thereby inflict serious and lasting injury on the character and quality of our Scottish education. (2.) But further, it would work towards the same injurious result, by the fact that it would, strictly speaking, take the money value of the certificate in a direct form away from the teacher altogether, and make the indirect value of it both less in amount in most schools, and at the same time, variable and uncertain. The teacher prizes his present certificate, and works hard to obtain it, because the higher the grade of it is, the better are his prospects of getting employment, and of rising in his profession; because the allowance it secures is fixed and certain; and because, coming from a national source, it gives him a certain standing as the occupant of a public office. The Revised Code, in altering all this, will disincline young men of superior talents and character to give themselves to the business of education. Of this result there are already indications beginning to appear. The mere anticipation of the coming in of the Revised Code is telling in this way, as the following figures show:—The number of male candidates for admission as students in the Glasgow Free Church Normal Training School was, in 1861—57, 63, 52; 1862—56, 66, 26. The former supply was not more than equal to the demand. The present supply threatens to be quite inadequate. (3.) Further still, the Revised Code will work injuriously, by its action on the managers of schools. As they can get no help to the maintenance of their school from any educational results but elementary ones, which alone the Revised Code takes to do with, the managers will be tempted to discourage the introduction of any higher branches of instruction into their schools. (4.) Once more, it will tend to deteriorate our Scottish education, by discouraging the attendance at school of all children beyond the age of eleven years. The great effort of all enlightened friends of education for many years past has been to keep children from leaving school too soon. The Revised Code will go far to frustrate their endeavours. In the senior department of the Glasgow Free Church Normal School, out of nearly 200 scholars, only twenty or thirty would be eligible for examination, with a view to a capitation grant under the Revised Code; all the rest would be beyond the age; and the school managers would thus be made to suffer for their success in keeping these young persons an additional year or two at their education. (5.) There is one other objection to the Revised Code to which I wish to advert, and it is, in my judgment, a very strong one. I allude to the inquisitorial and offensive scrutiny which it proposes to institute as to the precise condition of the families to which the school children belong. Such a thing as ranging certain of the scholars in a sort of pauper class, and marking them off from those who may be by some all but imperceptible social grade above them, has been hitherto unheard of in Scotland. It will inevitably give great offence to the feelings of the parents, if it is ever introduced; and if it be submitted to, it will be at the expense of impairing that self-respect which is so essential both to their well-being and well-doing. It has been always accounted one of the best features of our common schools in Scotland, that they blended different classes together.

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With regard to the object of the New Code, which was to secure a more accurate teaching of the elements of education, do you think that practically there is much need of amendment in that respect: do you think the elementary education in Scotland has been much neglected, and requires a stimulus and a security not given to other branches of education?—So far as I know, not.

You don't think that in that respect the New Code directs itself to what was a want in Scotland?—I don't think it.

You are aware that the evidence as regards England, which induced the Privy Council to come to its decision on that point, was that practically the elementary education was extremely deficient in many of the schools in England, and that it was absolutely necessary to remedy the defect?—So I believe.

You don't think the same defect exists in Scotland?—I don't think so; and I am of that opinion, not merely from personal knowledge, but from the returns made by the inspectors as to the condition of the great majority of the Scotch schools.

What is your opinion of the system of Government grants to schools, or the denominational plan, as now in practice?—I have no doubt it has both largely increased the amount and improved the quality of education in Scotland. But at the same time, I am decidedly of opinion that it is, as a system, open to grave objection.

On what grounds do you object to it?—In the first place, the history, the habits, and the ideas of the Scottish people, in reference to common education, are in many important respects so different from those of England, that a system of education, framed with a view to England, and administered according to English notions, can hardly be ever made to work either smoothly or satisfactorily among us. Every one, accordingly, who has had anything to do with the working of the Government grants in Scotland, knows well how constantly difficulties have arisen, and how impossible it has been found to be to get the state of things here understood in Downing Street. The Revised Code is the best proof of the truth of this statement. Such a code could never have been framed for Scotland by men really acquainted with the educational institutions and usages of this part of the United Kingdom. If we are ever to have an educational system that will work well in Scotland, it must be both framed and administered by men who understand us,—a thing which Englishmen never do. But apart from this consideration altogether, I object to the present system of Government grants, on several distinct and specific grounds. As each denomination works apart from the others, and acts upon its own views and responsibilities, it can hardly fail to happen that some districts, where money and educational zeal are comparatively abundant, will get more schools on this system than they need; while other districts that are poor, or where there is little religious life, or sense of the value of education, will get far fewer schools than they need. I am not prepared to enforce this statement by any array of statistics. I have not had time or opportunity to prepare them. But if the Commission will select particular districts, and make the inquiry by assistant commissioners for themselves, I have no doubt whatever that my statement will be amply verified. It would be indeed something like a miracle if it were otherwise. That it is not otherwise, such facts as these which I find stated in the census tables of 1861, appear plainly to imply, viz., that in Shetland, which is remote and poor, out of a population of 31,678, there are, of children from 5 to 15 years of age, only 1690, or 1 in 19 of the population, at school; while in Clackmannan, comparatively rich, and in the heart of the country, out of a population of 21,449, there are of children of the same age, 3860 at school, or about 1 in $5\frac{1}{2}$. An accurate educational survey of such a city as Glasgow, would, I have good reason to know, reveal many contrasts of the same painful kind. While in the better conditioned districts, as high a proportion of children will be found at school as in the best educated parish in the kingdom, it will be found that in some of the poorer quarters of the city, the proportion sinks to 1 in 20, and even to 1 in 30. From a very careful inspection that was made in 1857, by Mr. Somers, editor of a Glasgow newspaper, accompanied by an intelligent staff of reporters, of every school in Glasgow, it was ascertained that there were then on the school rolls, in all 28,463 children. The children of Glasgow at the same period, between the ages of 5 and 15, were in all 79,500. It would thus appear that only about 1 in 3 of the children at the school age

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were actually at school. The gross population of Glasgow, at the date in question, was 408,000 ; from which it appears, that the proportion of children then at school, to the whole population, was 1 in 14, an average which, if examined in its details, will be found rising in the wealthier districts to 1 in 5, or even to 1 in 4 ; and sinking in others to 1 in 20, and even to 1 in 30. Such results are not accidental accompaniments of the system of Government grants, administered on the denominational principle : they are its inevitable results. It is a system which gives *most* aid where it is least needed, and *least* aid where it is most needed. It is, moreover, a system which is utterly and unavoidably wanting in that unity of plan and arrangement, and in that effective oversight of the educational state and necessities of the country at large, without which the evils I have pointed out cannot be removed.

You take two objections to the denominational system : that it leaves unprovided those parts of the country where schools are perhaps most needed, and also that even in the rich and populous parts of the country, such as Glasgow and other great cities, it fails to reach the lower stratum of the population ?—Yes.

What opinion have you as to the probability of a national system reaching that lower class of the population ?—In the first place, a national system, if it were founded upon a thorough inspection of the educational state of the country, would reveal the destitution that exists ; would proclaim it authoritatively ; and I presume, if the resources of the national system were intended to be applicable to the education of the whole country, steps would be taken under that system to meet the destitution which was found to exist.

In such a case as Glasgow, where you say that in some districts the attendance of children would be found to be as low as 1 in 20, or 1 in 30, that arises, does it not, from the unwillingness of parents to send their children to the schools which already exist ?—Not exactly, but in part. I myself was formerly, when in the Establishment, minister of one of the poorest parishes in the city, and subsequently since the Disruption, have, till within the last few years, when I was removed to another charge, taken a great interest in the educational condition of that parish. Now I found that though I knew the destitution of the parish, I could not, by any resources that were open to me, make adequate provision for it. Private resources could not be obtained adequate to meet the educational destitution. I succeeded in erecting a large system of schools which educated many hundred children ; but it was at great cost, and with great effort to procure the necessary funds. It took a great deal of time and labour, and after all only met in the most limited and imperfect way the destitution of the district. The schools, however, were no sooner planted and put in operation, than they were filled. And therefore I don't admit that the difficulty arises merely from the unwillingness of the parents, but to a large extent it arises from the difficulty of obtaining, in such localities where the destitution is very great, and the price of sites for schools very dear, sufficient funds from private individuals. I have no doubt there is also a difficulty on the other side, which has suggested the question, whether it would not be necessary to have an education test by all employers of labour, that would come in aid of removing the other difficulty.

It has frequently been stated that even in Glasgow, and other places, the want is not in the number of schools, which is represented very often as being adequate, but the impossibility of getting the parents to send their children : you don't agree in that opinion ?—I do not. I think it is overlooking a great part of the real difficulty.

The comparative advantage of a national system is, in your opinion, this : that schools would be erected by compulsory assessment where, on the report of certain inspectors, they are found to be necessary ?—Certainly ; and where the schools were actually in existence and teachers provided for them, it would not be difficult, in a large city like ours, to get some section of the Christian Church to attach itself to a given locality. There is good feeling enough, notwithstanding all our divisions, to accomplish that, and to get all the moral force that could be brought to bear on the parents, to co-operate with the teachers.

Do you approve of the clause being extended to other kinds of labour than factory labour, which obliges parents to send their children to school ?—Yes ; certainly. I suppose tobacco-works are not included in the Factory Act. I allude to that, because in the immediate neighbourhood of the school that I got built

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in the Tron parish in Glasgow, there was a tobacco-work, and it was impossible to get one of those boys and girls who were employed in it, and who were chiefly 8 to 10 years of age, to attend the school; it was only by instituting an evening class that it was possible to get them educated at all, though but very imperfectly, because they were tired before they got away from their work.

Then you would approve of extending the provisions of the Factory Act over the country?—Certainly.

To prohibit the employment of any children who could not produce a certificate that they were attending school so many hours a day?—Certainly; and I may mention that I had a communication, a few days ago, on that very subject from the chairman of the Sabbath School Union, asking me very urgently to press that point on this Commission, because from the great experience which that Union has of the state of the children in the city, their schools having in attendance, I think, about 50,000 Sabbath scholars at this moment, they are satisfied that it will never be possible to overcome completely the difficulty about getting children to week-day schools, unless such a test is adopted.

Do you think the number of employments is increasing in Glasgow, which require the services of very young persons?—I am not perhaps competent to speak on that subject, but I should rather think they were.

But they exist to a large extent, and materially interfere with the attendance of children at school?—Undoubtedly.

Lord Polwarth.—Is it not your opinion that the poor would send their children to school if they got a free education?—No doubt that would have an effect in some quarters; but probably the education would be less prized, and they would be less careful about keeping their children at school, than if they had to pay something. I may say that in the school to which I have referred, which still exists, and is in the very lowest and most destitute part of Glasgow, we found that it was not difficult to get a penny a week from very poor people, and that they took more pains to see that their children were regular in their attendance when they paid that. Of course, we always instructed our Sabbath-school teachers and other visitors to do what they could to bring to school the children of parents who could not pay even a penny, and we educated them gratis.

Then it amounts to this: that it is the poverty of the parents which prevents them from sending their children to school?—Not exclusively.

The Chairman.—Is it your opinion that it would be desirable, in room of the present plan of Government grants to denominational schools, to establish a comprehensive national system: and if so, what do you consider to be its chief advantages?—That is my opinion. Such a system that should adequately extend our old parochial school arrangement, and adapt it to the educational wants of the present time, and that should admit into its electoral and governing boards a fair and equitable representation of all the parties interested, would go far, as it appears to me, to avoid most of the evils, and to remedy most of the defects of the existing state of things:—(1.) It would bring the whole country under one common system of supervision, and would thus lead to a more uniform and effective distribution of both teachers and funds. (2.) It would stimulate teachers to exertion and improvement, by opening avenues to promotion from the lower to the higher schools. (3.) It would bring the children of different religious denominations together, and thereby cultivate kindly feeling and abate sectarian prejudices and estrangements. (4.) It would lead to such a classification of schools as would suit the educational exigencies of each particular district; to the planting of intermediate schools where they would be most needed and most useful, and would thus bring the common school education into such a relation with that of the Universities, as would open the way for the more advanced and capable scholars from the one to the other.

What is your opinion as to the practicability of such a scheme?—There are elements in that question of which I am not competent to speak; but there are some things bearing on the practicability of such a scheme, to which I shall take leave to allude. The difficulties in its way I suppose to be chiefly these three:—the obtaining of requisite funds; the religious element; and the constitution of the local boards. (1.) As to the pecuniary resources for establishing and maintaining such a system: these might be provided for by continuing the existing parish school assessment; by a definite sum from the annual Parliamentary education grant; and by supplementing that sum by a rate in aid, to be

levied on such a footing as would embrace property of all kinds. (2.) As to the additional schools to be provided: denominational schools already existing in suitable localities might be acquired, by transfer from their present owners, on equitable terms; where others still were needed, provision would of course have to be made for their erection, out of the funds applicable under the new system to this purpose. It is true that the providing of the funds, either for maintaining the teachers or acquiring and erecting the additional schools, may not be the greatest difficulty connected with such a scheme. The more formidable difficulties, perhaps, are those which arise in connexion with the religious element of such an educational system, and with the constitution of the electoral and governing boards. I cannot, however, and do not believe that these difficulties are insuperable, if they are grappled with in a wise and conciliating spirit by the Government. As to the religious question, it is notorious that in nineteen-twentieths of all the common schools in Scotland, the Bible and Shorter Catechism are taught without question or challenge. With a few inconsiderable exceptions, they are as universally used in our denominational, and even in our adventure schools, as in the parochial schools themselves. Not much, nor very stringent legislation can therefore be needed, to secure the continuance of a usage that is immemorial, and that is in the fullest harmony with the deep-seated convictions and prepossessions of the overwhelming mass of the Scottish people. With respect to the constitution of the electoral and governing boards in the several parishes or educational districts, I am disposed to think it is here that the greatest practical difficulty lies. There are jealousies among ecclesiastical parties not easy to be got over; and there are also exclusive feelings, permit me to say, prevailing among those who hitherto have had the entire control of the parochial schools,—feelings which indispose them to share their prerogatives with any new or additional parties whatsoever. In regard to the former of these two difficulties, it would seem to me to be a great help in the way of getting over it, if *no ecclesiastic* had a place, *ex officio*, in the governing and electoral boards. Let the constituency by whom the members of the board are to be chosen, elect whom they please, minister or laymen, but let no minister have a place at the board without election. In regard to the latter difficulty, that, viz., of interfering with the exclusive prerogatives of the qualified heritors, they are themselves so powerful in the Legislature, that it must depend mainly on their own patriotism and disinterestedness whether this difficulty *can* be taken out of the way. It has always seemed to me, that even as regards the parochial schools, the right of the heritors to an exclusive control is very open to question, in so far, at least, as grounds of equity and fair reason are concerned. It is true that the teachers are salaried, and the schools built by an assessment levied from the lands of the heritors; an assessment, however, which is paid, not as a personal contribution, but as a heritable burden, and for which in many, perhaps in most cases, an equivalent was deducted from the price when the estate was bought. But apart from this consideration, it remains that the school-fees of the children are, after all, an important part, not unfrequently the largest part, of the teacher's maintenance. I have never, therefore, been able to see why, on this obvious ground, the parentage of the parish should not have some place—by representatives, more or fewer, and of their own choice—in the governing board of the school. It is their children who are to be educated; they pay less or more of the teacher's maintenance; and on what grounds they should be excluded from all share in the choice of the teacher, and in the management of the school—except on the ground of a usage coming down from feudal times—I am unable to see. If, under such an enlarged national school system as I have been pointing at, boards were constituted, in which, while the existing qualified heritors retained their present place, there should be associated with them certain other members—of whom one portion should be chosen by those liable for the rate in aid, and another by the parents of the school children—I believe that such boards would deserve and command the confidence, both of their own parishes and of the public at large, and would render the legislation on the subject of the religious element in the educational system simple and easy.

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Then I understand that you consider a liberalizing of the present constitution of the parish schools as an essential part of any new national system?—I think if that were not done, it would have the great and obvious deficiency of making virtually two systems of education in the country instead of one.

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You would not be content with a measure such as the Lord Advocate last proposed, leaving the parish schools as they are, teachers of all denominations being eligible to the mastership, but leaving the management where it now is, and establishing a new management for district and rural schools?—That may be the best arrangement that can be procured; but I don't think it is itself the best.

You think it would be no final settlement of the question, unless the parish schools were made the nucleus of the new system?—I do think so. The question is raised now in that form,—are we to have an educational system, which was tolerably sufficient at the time it was originated, really made co-extensive with the present educational wants of Scotland, in towns as well as in rural parishes?

The change you propose is that the heritors should still have a large voice in the management of the school, but that there should be associated with them a certain proportion of the ratepayers and the parentage of the parish?—That is my opinion.

Would you be inclined to give a separate representation to parentage, as distinguished from ratepayers, or do you think the representation of the ratepayers would sufficiently include a representation of the parentage of the parish?—That would depend on how far the assessment on the ratepayers would include a fair representation of the parents. But it strikes me that it would be right in itself, and would be a great advantage to have some direct representation of the parentage, because it would make the settlement of some other questions a great deal easier,—the religious question, for instance. I cannot suppose that the parents of Scotland would be disposed to make the slightest change in the education of their children, so far as religion is concerned, if they had any effective voice in the settlement of that question.

Then you are prepared, as regards the religious difficulty, to trust it entirely to the hands of the local managers, including for the future a certain proportion of the ratepayers and parents of the parish?—Yes, I would be quite disposed to do so; but at the same time, I think it would be a desirable thing to continue the negative test, that the master is not to teach anything contrary to the Confession of Faith or the Shorter Catechism, though I don't attach much importance to that.

Do you attach any importance to the central board having control over the local bodies, as to the removal of teachers, and as to the religious instruction given in the schools?—For some purposes, probably, it would be necessary to have a central board, with controlling powers; but I should be disposed to doubt very much the propriety or expediency of giving it any right of interference with religion.

In the event of a majority of any parish determining to have no religious instruction in a school, and to leave it entirely to the clergymen and the Sabbath school teachers, do you think there should be any control over them in that respect, or would you be satisfied with their decision?—I think if the majority of the parishioners were to be in a state in which they were opposing it from a dislike of religion, it would not be of much use to force it upon them by mere legislation; but I don't contemplate that as a state of things at all likely to arise.

In the case of Roman Catholic parishes, of which there are some in the Highlands, where the population is chiefly, if not exclusively, Roman Catholic, would you be prepared to accept the consequences of a purely local management?—I think that is inevitable. I think in the government of a free country you can never, in the long-run, have anything very different from the sentiment of the people.

Would you approve of a clause, in the Act of Parliament, securing to children the right of getting secular instruction without going through the religious instruction?—Certainly; that is to say, that they should not be obliged to attend the religious instruction.

Throwing the *onus* of objection on the parents or guardians of the children?—Certainly. I don't believe it would be enforced by any religious party on the children of parents who were dissatisfied with it; but in order to make it manifest, it would be an advantage to have it in the Act.

Do you attach importance to excluding from the management of parish schools the parish clergyman, *ex officio*, with such very limited powers as he now has?—I think that just raises the question of whether other parties ought not to be in the board *ex officio* too, and that jealousy would be got rid of if no ecclesiastic were there *ex officio*. Besides, I don't think that the power of the parish mini-

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ster is nominal under the present Act. His power as an elector is very great: for example, I was told the other day of a parish in which four-fifths of the property was in the hands of three heritors, all of whom were members of the Free Church; the remaining fifth was in the hands of three other small heritors who were of the Established Church, and the vote of the minister settled the question of who should be the teacher of the parish school, although the property and the influence of the parish were on the other side.

Would you not consider it a sufficient security that the clergy of other denominations should be eligible to be elected by the ratepayers?—Not unless all parties were put on the same footing. It does not seem to me that, in a national system, of which the education is not made to be part and parcel of the Established Church, there is any propriety or fairness in giving the parish minister a preference to others.

How, in your opinion, are the Free Church and other Nonconformist bodies affected towards such a scheme?—The Free Church has again and again, by resolutions of her General Assembly, and of the Assembly's Commission, declared herself decidedly in favour of such a scheme. It has been insinuated, indeed, in certain quarters, that this is due merely to a selfish desire to get rid of the burden of her own education scheme. The imagination is very groundless and very foolish. A Church that raises a revenue of £330,000 a year is not likely to grudge the comparatively trifling sum expended on a scheme which, apart from the immense good it accomplishes through means of its nearly 700 schools, is a source to the Free Church of great denominational influence in the country. I believe that it is literally true to say there is no other religious body in Scotland which would make so great a sacrifice of *prestige* and influence in promoting the adoption of a comprehensive national education scheme as the Free Church. But the Free Church is attached to the old and honoured system of the Scottish parochial schools. She believes that, in spite of Scotland's divided ecclesiastical state, there is no sufficient reason why it might not still retain and extend, and make co-extensive with its present population, its national parochial school-system. And I have no doubt the Free Church, on public grounds, desires, and is willing and prepared, to do everything that is fair and equitable to facilitate, in so far as she is concerned, the introduction and establishment of a such a system. As regards other Protestant and Nonconformist bodies, evidence can of course be obtained as to their views from some of their own leading ministers or members. My conviction, however, is, that they are all, generally speaking, favourable to a national system, and would greatly prefer it to the existing system of Government grants. I know that public meetings, in favour of a national system, have of late years been held over and over again in Edinburgh, Glasgow, and most of the chief towns in Scotland,—meetings in which Nonconformists, generally, have acted cordially together. I know of no meetings that have ever been held to oppose such a movement.

Mr. Dunlop.—You spoke of the present restricted management in the election of schoolmasters as a relic of feudal times: are you not aware that the restriction of the qualification of heritors had its origin in the Act of 1803?—I am aware that the Act of 1803 did restrict the qualification, but I am not aware that, practically, the system previously existing was very different.

Previous to 1803, there was no limitation of qualification in any proprietor voting for a schoolmaster?—Then in that case my argument is all the stronger, for it does not appear to have had even the sanction of feudal usage.

The Chairman.—I understand your objection to be not merely to the limitation to a particular class of heritors, but to the limitation to heritors at all: you wish the managing body to contain a representation of those who are not heritors at all?—Clearly.

Therefore your general expression with reference to feudal times, was merely this, that in old times it was not so natural as in modern times to have the popular element?—I presume in those days, excepting the landed proprietors, there were few persons of much wealth or intelligence in the parish. The middle class has grown into existence since that period.

Lord Jerviswoode.—In large parishes do you think it would be practicable to work a scheme which would give parents a voice in the management of the school?—I should think that there might be regulations to make that practicable; of course it would only be in schools which the system recognised and

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established; and if it were stipulated that no parent should have any right to vote in electing a representative, unless his child had been a year at school, or some such regulation as that, it would prevent people getting on the roll merely for a purpose.

You would require to keep a roll of the parents in that way?—The teacher would have the names of the parents of the children at school.

Don't you think those who were going to send their children to school would have as much interest in the matter as those who had children at school?—I think not.

Mr. Cook.—You understand the present parochial system to be a national system, so far as it goes?—Certainly.

And the national system which you advocate would be the present parochial system, improved and altered in the particulars you have stated?—Yes; it is on the ground that I regard it as now really a national system in the strict sense, that it would appear to me inconvenient to be giving it a separate character and a separate management of its own; but that, just because it is national, whatever additional schools or teachers are required, should be made part and parcel of one and the same system.

You don't want to have two national institutions?—Quite so.

One of the improvements you suggest on the present national system is the abolition of the rights and privileges of the ministers and Presbyteries of the Established Church, which they at present enjoy *ex officio?*—The minister at present remains as an elector; but the Presbytery, as I understand, under the present Act have no powers.

I thought you said you would exclude the minister as an elector?—As an *ex officio* elector.

Would you continue the right, which you may assume the Presbyteries have at present under the Act of Parliament, of visiting the parochial schools?—I would not continue it.

The Chairman.—Would you abolish it?—I suppose it would continue unless it were abolished.

Mr. Cook.—Do you think it has worked badly?—I don't think that the working of it is very important; but I think that, with the Government inspectors, and with the increased interest that all parties would take in the schools, if they were put under the general oversight of qualified representatives of the feeling of the parish, you would have a better superintendence of the school than the merely formal superintendence given by the Presbytery.

Do you consider the examinations of the schools by the Presbyteries as merely formal?—It cannot be much more, and never is much more, I suppose.

You have been a parish minister?—Yes.

In a rural parish?—Yes.

Do you consider the examination by the Presbytery to be formal?—I think it is little more. It is an examination once a year, which can never come to very much.

Do you think that any considerable number of the people now refrain from sending their children to the parish school, either on account of the minister being an elector or because the Presbytery have a right of visitation?—Where the feeling of estrangement from the Established Church is very strong, as it is in some parts of the Highlands, I have no doubt that feeling may exist. Otherwise, in the Low Country, I should not think it had much to do with that. I did not speak, on the point to which you refer, with any reference to the amount of attendance just now, or to whether the cause which you allude to hinders the attendance, but rather to what was right in itself, and likely to be most efficient.

Supposing such a national system as you have sketched to be established, under which there should be no *ex officio* superintendence or management by any Church, do you contemplate that the different Presbyterian Churches in the country should cease to have any establishment of schools in connexion with them?—Certainly, I think that follows; if we are to have a national system that will be co-extensive with the wants of the country, it would of course imply that denominations would not have schemes of schools. The Legislature would never think of hindering it, but practically it would cease.

Has it not been always part of the Presbyterian idea of Church establishments, that there should be a system of schools in connexion with and under the super-

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intendence of the Church?—I have no doubt that at the time the parochial schools were instituted, when there was but one Church, one may say, in the country, there was no other idea than that to which you refer; but it does not appear to me to follow that, in the present state of society and of ecclesiastical parties, it would be right or wise to carry out the same system.

When the Free Church was instituted in 1843, or shortly afterwards, did they not think it a right and proper thing to have an establishment of schools in connexion with their Church?—They thought that for various reasons, not exclusively because it was a necessary accompaniment of a Church; I don't know that they ever laid down such a principle; but that, in point of fact, there were districts of the country where additional schools were very much needed; and they had also teachers who had on conscientious principles withdrawn from the parish schools. They were extruded from them in consequence of their adherence to the Free Church, and the Free Church was led, to a very considerable extent, by that circumstance, to feel an obligation upon it, as more education was needed to employ these men.

Was it an eleemosynary scheme that was established?—I have already said it was because of the need of education.

And not any idea that the Church would be an incomplete establishment if it had not a system of schools connected with it: did that idea not enter into it?—I cannot say what ideas particular individuals may have had. What views the Church itself held will be best ascertained from its own resolutions.

You are an active member of the Church: was it that idea that led to the establishment of these schools?—I have already said what, in my view, was the leading idea of the Free Church in setting up and promoting its education scheme.

Are your Free Church schools under ecclesiastical management?—They are the property of, and they are under the management of, the Deacons' Courts,—courts consisting of the minister, elders, and deacons.

All of whom are ecclesiastical officers?—All of whom are chosen by the people.

And are ecclesiastical officers?—They are ecclesiastical officers chosen by the congregation.

They can choose none other but the minister, elders, and deacons?—I suppose they don't care to choose any other.

But that ecclesiastical board is the *ex officio* board for the management of these schools?—It is a board, undoubtedly, in one sense *ex officio*, but it is a board chosen by the congregation itself.

But it is a board *ex officio*, and it is an ecclesiastical board *ex officio?*—As a denomination, I am not aware of there being any other way in which they could go to work about it. It is a congregational school. The congregation elect these men to take charge of all the affairs of the congregation, of whatever nature, and these parties accordingly take charge of them, the school included.

Then the Free Church have thought it right and prudent that the management of their schools should be committed to an ecclesiastical board?—Of course they have, in the sense now explained.

The Presbyteries of the Free Church, I suppose, exercise a right of visitation and examination of these schools?—They do. So long as denominations are as denominations maintaining school systems, there does not appear to be any other mode of proceeding.

How often do they visit and examine the schools?—Once a year.

Is it merely a formal and perfunctory examination?—It is an examination of the ordinary kind; as efficient, I suppose, as one day, or three or four hours, in the year, can be.

Do you attach importance to it as keeping up the religious character of your schools, or their efficiency otherwise?—Not certainly as keeping up their religious character. The congregation itself takes care of that through its own managers.

Or their efficiency?—Their efficiency too. Their efficiency is maintained by the fact that the teachers are removable.

Then you don't attach any importance to the visitation of your schools by your Presbyteries?—I did not say so.

Do you?—In its own place it has its own use.

What is its use?—It is a link of connexion with the denomination.

A link of connexion between the Church and the schools?—Yes; the Church dispensing the funds of the people for this object, holds itself bound to give some

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such oversight as will satisfy it that the schools are at all events in existence, and are going on.

Mr. Black.—Are the deacons in your Church connected in any way with the teaching of religion, or are they merely managers of secular affairs?—Merely.

And they are just such parties as would be likely to be selected for the management of schools, or any other secular business—respectable parties in the Church?—They are selected purely for that purpose. The deacons have no spiritual office.

Did you say that you thought there should be some statutory security for religious teaching in the national schools?—I did not say so.

Mr. Mure.—But you said you had no objection to the Act entertaining some such declaration as is contained in the University Act, that the teachers should not teach anything contrary to certain standards?—I have no objection to that whatever.

Supposing that an extension of the parochial system were arranged, what would you propose to do with the Normal Schools as part of it?—That is a difficult question. I have no conclusive opinion upon that subject.

Do you think Government aid should continue to be given to a certain extent to the Normal School, with a view to secure a proper number of teachers, fitted for their duty?—My own opinion is, upon the whole, that the Normal Schools might perhaps be as well left as they are,—I mean without being withdrawn from the control of the parties who have the charge of them as matters now stand. It seems to me that if the training of the masters were left as it is, there would be a good security that they would be men fit to be intrusted with the charge of youth, and consequently that as regards legislation on the subject of religious tests, and so forth, there would be less need of being very particular or stringent.

If a national system is introduced in lieu of the denominational, would you propose to keep the Normal Schools in the hands of the Established Church and the Free Church?—I have no conclusive opinion on that subject. I think the question of the board which should manage these schools would be very important, and perhaps somewhat difficult of arrangement.

Don't you think it would require to be generalized and nationalized, instead of being left on the present denominational footing: you surely would not propose to have a non-denominational system for the education of the children, and a denominational system for the education of your teachers?—That is to say, your question is, Would it not follow that the State, if it is do the one thing, should do the other?

That is, should do it, not by means of the different denominations, but in a school for the education of schoolmasters, under some general management, separate from the various Churches?—If the State were to take it in hand, I presume it would have to be substantially on the same principles as are to govern the local schools; but I am not, as at present advised, disposed to say whether or not it would be wise in the State to charge itself with the Normal Schools at all.

Do you think it would be wise in the State to leave the Normal Schools under the management of the Established and Free Churches as at present, if there was a national system of education?—As a question for the State to decide, that would depend on how far they found that the want was adequately and suitably supplied. The Free Church Normal School at Glasgow does not teach Free Church teachers exclusively. They are not asked to sign any test, or to profess to be of any particular Church. They are left perfectly at liberty: they may be Independents, Presbyterians, or Episcopalians, and in point of fact, there are young men of all these denominations in the school, and have always been.

Is not its management exclusively denominational at present?—It is.

Do you think it desirable to continue an exclusively denominational system of management in the Normal School, under a national system of education for the country?—I don't at present see any harm in that. It is working in such a way that it would not appear to me likely to be made much better by the change. For uniformity's sake it may look as if it would be expedient to take the course now indicated; but there are not the same reasons, as it appears to me, for nationalizing the Normal Schools, as for nationalizing the common schools.

But it would be open to the objection that you had a denominational system to a certain extent in existence?—But not paid by the State. Unless the State ceased to pay anything towards the Normal Schools, they could not avoid apply-

ing their own general principles to the control of these schools. I thought you referred to the question whether the State ought not to have Normal Schools as part of the national system. Rev. Dr. Buchanan.

Suppose there were no Normal Schools under the charge of any Church, do you, or do you not, think it would be a desirable part of a national system, that some steps should be taken to have schools in the different districts of the country for the training of the teachers?—I think so. If there were no such institutions in existence, I think the State would not have had a sufficient apparatus for carrying on education in common schools without them. But these schools being in existence, and efficiently supplying well-qualified teachers, as is, I suppose, admitted on all hands, I don't know that it would be wise in the State to charge itself with those institutions; I think it would be better to withdraw from them altogether than to attempt to control them. I think the Government should have a right of inspection apart from payment; let the Government be satisfied upon inspection by inspectors of their own, that they are doing their work and turning out properly qualified men; in short, let the Government be entitled to refuse to sanction the appointment of the teachers taught in these schools unless they were properly qualified to pass a Government examination. This would be enough.

You would have them independent altogether of Government aid?—I rather incline to that opinion.

Do you think, looking to what you have seen of the class of persons who come to these schools, with a view of perfecting their education to become teachers, that without some Government aid, the same class would come up hereafter?—I am quite satisfied that the parties who maintain the institutions would have to do what the Government is now doing.

So that there must be some contribution, either from Government, or from local exertions, to enable the same class of teachers to come up and be educated?—I think so.

The Lord Advocate.—In 1843 there was a Normal School in connexion with the Church of Scotland?—There was the Glasgow one, and the Edinburgh one too.

And at that time, I think, the Privy Council did not give any assistance to Normal Schools?—At this moment I don't recollect how that stood. They certainly gave assistance to the building of the Normal Schools, but I don't recollect whether they assisted in the way of bursaries to the students. I happened to be connected, from the very first, with the first Normal School in Glasgow, which is now in the hands of the Established Church, and I know that we obtained a grant towards the building of it from Government.

Sir J. Fergusson.—You spoke of the apprehended deterioration of teaching under the Revised Code: under the old system, in the parochial schools, was there not more attention paid to the teaching of the higher branches than there is at present?—I am not aware of that. I have no doubt that in the counties where the Dick bequest and some other bequests are in operation, education is carried to a higher point in these particular schools, but I am not aware that there has been any falling off in the higher branches of instruction of late years.

You apprehend that under the Revised Code education would generally deteriorate?—I think so.

And that because the higher branches would be neglected?—Just so.

But there is nothing in the Revised Code to prevent the instruction of pupils in the higher branches, is there?—No; only, in the first place, the teacher gets no certificate in reference to his qualification to teach the higher branches, so that he has no inducement to qualify himself for teaching them. The only certificate of qualification he gets is a certificate that he is qualified to teach reading, writing, and arithmetic, and therefore that will naturally influence the young men training for the profession of teachers. As these are the only branches which will pay them, they will not be likely to give much attention to qualifying themselves for what will not pay them.

But you approve of thorough elementary teaching?—Certainly; and I think it perfectly reasonable that Government should take every means of securing that the elementary teaching is thorough and good.

Under the old system of Privy Council grants, was there not rather an inducement to give the greatest attention to the teaching of the higher class of pupils?—I rather think not. If I recollect right, the returns of the inspectors of the schools

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that were assisted show that the elementary branches were well taught in the overwhelming majority of the schools in Scotland.

I understood your evidence to show that not only the Revised Code, but the fundamental principle of the Government grants, is unsuited to the educational wants of Scotland, especially in giving to wealthy districts, but withholding from those where local contributions cannot be obtained?—That is one of my objections to that system; that as the grants are given on the principle of getting a large amount of the funds requisite raised locally, the poorer the place the less chance is there of their having the means of education.

And therefore you would recommend, in preference, a system of grants to schools established on the national system, so that they shall satisfy certain tests of efficiency, and not merely in return for local contributions?—It appears to me that the advantage of the one system over the other on that point is, that instead of relying on local benefactions, where they cannot be got in adequate amount, you would have a compulsory assessment which would secure what was necessary for the erection of the schools. You would, moreover, make sure of the money being applied only in the quarters where it was needed.

With reference to the examination by Presbyteries, seeing that the Presbytery of the Established Church, and many of the people, attach considerable value to their examination, would you not consider, as preferable to the abolition of the presbyterial examination, the extension of the right to the Presbyteries of other religious bodies?—I am afraid that might lead to collision and jealousies. That, of course, would be one way of settling the question, but whether it would be the best way I am not so clear. I have no doubt that if the local board were constituted on such a basis as would bring out the wishes and feelings of the people of the parish, the ministers of different denominations would probably be on that board, and that you would have by their presence all the advantage of that kind of oversight, which you now refer to as obtained by the present arrangement.

Lord Polwarth.—As I understand your constitution of the national system, it is entirely exclusive of all ecclesiastical connexion, so to speak?—Yes, as such. I proceed upon this consideration, that even the parish schools are no longer, strictly speaking, ecclesiastical, but national, and that the following-out of that system over the country would imply that you must either exclude any one denomination or include every denomination,—all kinds of ecclesiastics; and I think the latter alternative would be so incongruous and so unworkable, that you would have to look for the oversight of the religious interests of the education of the country elsewhere, and through some other means.

Do you think it essential that the minister of the Established Church should not be an *ex officio* member of the Board?—I think that is necessary, in order to make the system thoroughly national, and not under the semblance of its being national, to retain the appearance, if not some of the substance, of its being denominational.

Then you would prefer a national system without any religion?—I cannot believe that a national system in Scotland would be exclusive of religion.

You cannot conceive such a thing as a utilitarian school existing, with no religious element?—The utilitarian, which, I suppose, is the secular system, is a very small interest in Scotland.

Don't you think it would deteriorate from the position of the clergy of all denominations, if they were to canvass in order to obtain a seat at the board of examination?—I admit that there are difficulties and disadvantages connected with any view of that subject, but it seems to me, on the whole, that that is the method which would create least difficulty.

How far do you intend that the board of management should interfere with the direction of the school,—are they simply to elect the schoolmaster, or are they afterwards to have a supervision of the teaching?—As I understand, the board which regulates the parish schools regulates what is to be taught in the schools.

But if that is not taught, and the fees are altered in any respect, what control have they?—I should understand the new board to have, in these respects at least, the same powers as the old one.

And these are *nil*, or pretty much so?—I did not know that. I think they should have the power of settling what fees should be charged, and the branches of education to be taught. As regards the control over the teachers, I have not

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been asked any question. I think the control over the teacher is very defective as it at present stands in the parish schools.

You would have a different system under the elective board of management?—I would be disposed to do so certainly. I would give them more stringent powers.

The Chairman.—Looking to the fact that under a national system there will be no statutory provision for religious instruction: do you attach any value to the religious instruction given in the Normal Schools?—I do.

You think that the fact that the majority of the candidates for schools passing through such institutions, would tend to make them better qualified for conveying religious instruction?—I do.

And you attach, therefore, positive value to keep up the Normal Schools in connexion with the various bodies?—I do indeed; so much so, that I would rather see them put in a position of deriving no pecuniary advantage from the State than being interfered with.

Do you think that the action of the Normal Schools has been very much to improve the qualifications and the religious character of the teachers in that respect?—I have no doubt it has. My recollection of examining schools goes back more than thirty years, and I certainly can speak of a very great advance in the general efficiency of the teachers, as to their personal knowledge, and as to their ability to teach.

Do you think that the religious instruction which is given by a schoolmaster in common schools is very effective, or would you set any great value upon it?—I think it is often really valuable. Of course, much depends on the character of the teacher. If he is not himself religious, the mere knowledge of religious questions which he communicates will be limited, and it may be communicated to the children in such a way as not to make a good impression on them.

You would entertain very strong objections to any system which should eliminate religious instruction in the common schools?—Certainly.

Do you think that Churches could not undertake that work?—I think it impossible to educate children efficiently, even in the ordinary branches of education, without constantly having reference to religious motives and religious considerations.

Lord Polwarth.—The religious element must occur at every passage and sentence?—Certainly, that is my opinion.

REV. DR. TAYLOR,—*examined.*

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The Chairman.—You are a clergyman of the United Presbyterian Church in Glasgow?—Yes.

You have given your attention to the subject of education: is your experience of education chiefly connected with Glasgow?—I have had a good deal of experience over the country, but it has been mainly in Glasgow.

Would you state to the Commission the grounds of the objections which are taken by the United Presbyterian Church, as a Church, to the denominational system of education?—I may state, first of all, that we share in the general objections which are entertained by friends of national education of all denominations throughout the country. It is well known that the system was not intended for Scotland, but was constructed exclusively for England. It is directly opposed, both in framework and in spirit, to the Scotch system of education, and quite alien to the feelings of the Scotch people. We share very strongly in these views. I suppose it is admitted that the Privy Council system is intended mainly, if not exclusively, to aid schools for the education of poor children. Now, in our parochial schools the middle class is educated as well as the children of the poor. We think this a very important point in any system of education. We therefore sympathize with the feeling against the denominational system on that ground. Again, the Privy Council grants are intended to aid elementary education only, and the teaching of the higher branches is discouraged. But in the parochial schools, grammar, geography, mathematics, and the classics are taught, as well as mere reading and writing. A very important connexion has always existed between the Scottish parochial schools and the Universities, and we are decidedly of opi-

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nion that this connexion should be fostered and strengthened, and not weakened or destroyed; and one ground of objection to the Privy Council system is that it tends to destroy that connexion.

Do you refer to the New Code or the Old?—I refer to both the Old and the New. Both are liable to this objection, though I think the New is more strongly liable to it than the Old. The Privy Council system and the parochial system we conceive to be entirely antagonistic. We don't think it is possible to harmonize them and combine them into one system; and believing that the Privy Council system is fitted to undermine and destroy the system from which the Scottish people have derived great benefit, and to which they are strongly attached, on these grounds alone, if there were no other, we would decidedly object to the Privy Council grants. But there are objections which are perhaps held more strongly by the United Presbyterian Church than by any other denomination in Scotland except the Congregationalists. This Church is of opinion that the whole system is based upon an unsound principle. The Privy Council grants are given to Churches, as Churches. Now the Church to which I belong has very decided objections to such a system; in short, we are of opinion that the less Government has to do with Churches, as Churches, the better for both.

That is on the Voluntary principle?—Not entirely,—there are other grounds. The Privy Council system offers grants to all religious bodies. It involves therefore, I think, the principle of indiscriminate religious endowment, which we consider more objectionable on many grounds than the endowment of one system alone. Besides this, we have another ground of objection; we are of opinion that it forms no part of the duty of a Church, as constituted by scriptural authority, to take charge of the secular instruction of the community. If this is claimed by the Church as a right, it is nothing but priestcraft, and if it is considered a duty, there is no warrant for it in the Bible. We conceive the Church may take charge of secular education, if the parents and the State neglect it. It may, without impropriety, establish and maintain schools, when it finds the duty neglected by parents and by the nation, for if left without secular instruction, the minds of the young cannot be prepared to receive properly religious instruction. But we are opposed to the Privy Council and denominational grants, as a system, on the ground that it intrusts the various religious bodies with a duty which does not belong to them, and that the special duty of the Churches, viz., the religious instruction of the people, is quite sufficient to exhaust all their resources and energies.

Do you think the Churches have a duty in respect to the religious instruction of the people, but not of young people,—children?—We think they have a duty as to the religious instruction of all under their care, but we object to their being burdened with the duty of giving or of supporting secular instruction.

But are you not aware that the Churches have been selected as the mediums of distributing the grants, with the view of securing that secular and religious instruction shall not be separated?—That is one reason of the selection; but I believe the main reason was, that from the state of matters in England, and the great diversity of opinion on the question of national education, Government was ultimately obliged to select this system.

As the means of getting rid of the religious difficulty?—Yes.

Did that not exist in Scotland?—To a very small extent. We never found it practically to exist.

You would not deny the duty of the Churches to look after the religious instruction of the children of their denominations?—Certainly not. The United Presbyterian congregations look after the instruction of their youth. If any parent were to neglect his duty in that respect, he would be dealt with by the Church; if he were incapable, from poverty, of giving education to his children, they would give it for him.

Then, do your remarks point to this, that you approve of a national system which should lay on parties locally assessed, the duty of providing secular instruction, and that you would leave to the various Churches the duty of providing religious instruction?—I think the two systems can easily be combined, as they have hitherto been in Scotland. The teacher is supported not wholly by rates, nor wholly by fees. It would not be very difficult to make a satisfactory arrangement in regard to this matter. So much of the income of the teacher may be derived from rates, and so much from fees, and I don't care to which you ascribe

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the payment for the religious instruction. I think the two can be combined quite well, so as not to hurt any but very tender consciences.

That is the system that at present exists; the salaries are supplemented: why do you object to that on prineiple?—The Privy Council refuse to make grants, except on condition that religious instruction shall be given.

Then it is a purely theoretical objection that you think Parliament should take no cognizance of religious instruction?—I think Parliament should not meddle with this matter.

You think they should pass it *sub silentio?*—Yes; I think any new Act of Parliament should be like the present, which contains no clause on that subject.

Are you not aware that the old Acts of Parliament provided for the religious instruction of the youth in Scotland by other means, viz., the connexion of the schools with religious bodies?—I am aware of that; but we object both to the one and to the other on principle. We are of opinion that the local electors and the managers of the schools, should be persons whose position and character afford a guarantee that religious instruction will not be neglected.

How do you propose that an Act of Parliament shall secure that?—I think the parents of Scotland have shown sufficiently already that they are determined that religious instruction shall not be neglected. The education in the parish schools differs in no degree from the education given in private schools. Every teacher of an adventure school knows that if he does not give religious instruction, he may shut his door.

Then you propose to leave that entirely to the local parties?—Yes.

You think the State requires to provide no security that these parties shall do so?—I consider this unnecessary.

You don't think it a legitimate function of the State to inquire into that?—I do not.

You are satisfied that the religious instruction of the people of Scotland would be practically conducted, as it is now, if local schools were managed by local representatives of the ratepayers?—I have no doubt of it.

Would you have the Churches to supplement the religious instruction by Sunday schools, or otherwise?—That I think very important. In any system of general instruction, I don't think it possible to give a complete religious instruction. The various denominations give, in most cases, Sunday school instruction, as well as instruction during the week, by their ministers, most of whom have classes for the young.

Would you approve of separating religious instruction altogether, and leaving it to be taken care of by the people?—I would disapprove of such an arrangement, believing, as I do, that the people of Scotland would not tolerate it. If we disapprove of any Act prescribing that religion should be taught, we should certainly far more disapprove of any Act prohibiting religious instruction in the national schools.

You would leave it to the local parties?—Yes.

Do you think the denominational system is incapable of supplying the wants of the community?—Certainly. Theoretically, you could not expect that it would do so, and experience shows that it is quite inadequate. No doubt it may enable each denomination to educate its own youth, but it can do very little to provide for the education of the masses who are beyond the pale of all the Churches. Its avowed and essential principle is to help those who are able and willing to help themselves, but it does little or nothing for the helpless and ignorant.

But it accepts the assistance of Churches who establish schools for the poorer classes?—Yes; but observe how the system operates: where the denomination is numerous and powerful, the Government assistance will be accepted, and education will be attended to, but where the people are either apathetic through ignorance, or helpless through poverty, the system is equally apathetic and helpless.

In point of fact, from your knowledge of Glasgow, do you think it has failed to reach the great mass of the lower classes in that city?—Undoubtedly.

Do you think there is a great amount of educational destitution there?—I know that to be the case. I have paid a great deal of attention to this matter, and I may mention a fact or two to show that the destitution is not growing less under the Privy Council system. Shortly after I came to Glasgow, in 1847, the magistrates instituted an inquiry into the state of education, which went over 220,000 of the people. They found that one in twelve of the population were attending schools

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of some sort; in 1851, the census showed that 13,000 persons, between the ages of five and ten, were not at any school, and a very much larger number of course above the age of ten. This was rather roughly taken, because many parties will say that their children are at school, though they are not at school. But there was a much more extensive and careful inquiry made, in 1857, by Mr. Somers, then editor of the *Daily Mail*, assisted by the staff of that newspaper, and others well qualified. The results were published day by day in the *Mail*, so that everybody had an opportunity of challenging them if they were incorrect. He found that, at that time, there were 21,000 children between the ages of five and ten not attending school.

How far do you attribute that destitution to the want of schools, or to the impossibility of getting parents to send their children to schools which do exist? —I think both causes operate, but a fact which came under my own notice may serve to show that it is to the want of right schools that this ignorance is largely to be attributed. In the district of Cowcaddens, where my congregation support a mission station, when we commenced our Sabbath-school teaching there, we found that one-half of the children could not read a word. I got my elders to investigate a small district there, which I could walk round in five minutes, to examine thoroughly into the state of education, and we found that (in round numbers) there were 800 children within that boundary who should have been under instruction, and of these 500 were at no school. The parents said, "We cannot send them to school, because we have no school within reach cheap enough and good, but if you open such a school we will send them." We opened a school capable of containing 300 children, and put three teachers in it; it filled at a rush; we charge no fee for the poorest; but a penny and a penny-halfpenny a week from the others. That school continues filled to the door to this day; and I know that I could fill another school there to-morrow.

Then you ascribe a great part of the educational destitution of Glasgow to the inability of the denominational system to erect, endow, and provide for a sufficient number of schools?—Certainly.

Do you not also ascribe the destitution to the temptation which parents have to send their children at an early age to industrial employments?—Yes, to a certain extent that does operate, and there is also the very lowest grade who can make more of their children begging and stealing. But I have always been of opinion that when we get a sufficient number of good schools, it would be proper to enact a labour test, and to refuse to allow children to go to employment till they are able to read and write.

You refer to the extension of the clause in the Factory Act?—Something of that kind, but acting in a somewhat different way, for I have been told that the factory clause is practically inoperative.

But you would approve of the State interfering, so far as to say that the children of the poor shall not be allowed to be employed in any industrial occupation, unless they produce a certificate that they are attending school so many hours a day?—Certainly; and I may mention that many voluntary educationists in Scotland recommend such an enactment.

You think nothing short of that will get at the mass of the population in cities?—Nothing short of that will get at the whole of them, though I believe that a large number, who are at present uneducated, would attend, if there were good schools within their reach, and means were used by the Churches and the missionaries to induce parents to send their children to school.

Do you object to the denominational system on the ground that it has a sectarian tendency?—I regard this tendency as one of its greatest evils. I think it a great advantage to have combined education, but the tendency of the denominational system is to gather children of the same sect only into one school.

How far is it true that the denominational system has been worked in a sectarian spirit?—Not to the extent we might have feared, and that for various reasons. The Scottish people have been so long accustomed to combined education that they are very unwilling to give it up. Another reason is, that they persist in sending their children to the best school, no matter to what denomination it belongs. I think that, in this respect, they are wiser than their leaders. Besides, the United Presbyterians send their children to the best schools, without inquiring or caring to what body the schools belong; so that the natural tendency of the denominational system is thus at present, to a great extent, counteracted.

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You don't say that the schools are conducted in a sectarian spirit?—I don't say so.

They admit all sects, and allow them to take advantage of secular instruction, without religious instruction, if they object to it?—Certainly; but the present system cannot stand still. If it goes on, the religious bodies who now stand aloof will be compelled, in self-defence, to erect schools of their own.

What opinion have you to express as to the objection that it leads to over-schooling in some places and under-schooling in others?—I think that is its direct and natural tendency. But so far as I have been able to discover, I don't think it has operated to a very great extent in causing the erection of schools where schools of some sort were not required. I think the mode in which it has operated is very much this: 1*st*, It has destroyed the old subscription schools, which used to be conducted on a catholic basis, but which have not been able to keep their ground against schools assisted both by Government grants and by religious bodies; 2*d*, While it has caused the erection of schools in parts of the country where the people would at any rate have provided education for their children, it has left to a very great extent the mining and manufacturing and Highland districts unsupplied with education. There are parts of Scotland, I know, where 1 in 5, and even 1 in 4, attend school; but in the closes and wynds of Glasgow we find that only 1 in 18 in one parish, 1 in 22 in another, and in a third 1 in 33 attend school; while in various Highland parishes the attendance is 1 in 11, 1 in 15, 1 in 16, etc.

The poverty of these districts prevents them meeting the requirements of the Privy Council?—Undoubtedly.

To what extent do you think the people of Scotland dissatisfied with the present educational system?—I think they are generally dissatisfied with it. I don't state that merely as my opinion; I am able to adduce facts to prove its correctness. First of all, the United Presbyterian Church, which comprehends about one-fifth of the population, has been unanimous from the beginning against the system; and the Free Church, though they ultimately agreed to accept the grants, at first denounced the system strongly, and have always declared their preference for a national system. I know that a large body of the ministers and elders of the Established Church hold the same view. One section, consisting mainly of ministers, of whom Dr. Muir may be regarded as the head, object most strongly to the Privy Council system, on the ground that it involves indiscriminate religious endowment, and because it ignores or gives no preference to the Established Church of Scotland; and there is a large body of laymen, with a fair sprinkling of ministers, who oppose it because it is a partial and unjust system, which cannot overtake the education of the community, and who decidedly approve of a national, unsectarian system. I may state farther, that I have acted as secretary for fourteen years to the Glasgow branch of the National Education Society, which was instituted in 1850, and of which Sir David Brewster is the President. It was founded on the basis of certain resolutions, signed by many hundreds of the most enlightened men in the country,—a considerable number of professors, for instance, with Sir William Hamilton at their head, and a large body of sheriffs, advocates, Writers to the Signet, medical men in first-rate practice, the provosts and magistrates of nearly all the burghs in Scotland, along with the most eminent manufacturers and merchants in the kingdom. These men all declared their strong preference for a national over a denominational system. We held a series of public meetings in all the large towns in Scotland, open to all comers, and in only one or two cases opponents ventured to appear, and were beaten by an overwhelming majority. I may say, without the fear of contradiction, that there is not a single town in Scotland where the opponents of a national unsectarian system would venture to call a public meeting, and submit the question to the decision of the inhabitants. Lastly, there is this most convincing proof, that almost the whole body of the Scotch Members of Parliament are in favour of a national system. I am acquainted with most of these members, and I have read the debates carefully, and I don't remember one who has expressed a preference for a denominational system. The bill which separated the parochial schools from the Established Church, passed the second reading in the House of Commons without any opposition; and I am satisfied there were not half-a-dozen of the 53 Scotch members who considered it either desirable or practicable to maintain the present system. In truth, if the people

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of Scotland were allowed to settle the question for themselves, they would make very short work of it.

Then you think Scotland is in a favourable position for adopting a national system?—Certainly.

Do you consider the parochial schools a national system?—I do.

In point of original constitution, and in point of management?—The schools were originally intended for the whole of Scotland, and took in almost the entire body of the Scotch people.

Did the Presbyterian Church not contemplate as part of their scheme, not only a school, and sometimes more than one in each parish, but an academy in every large town in Scotland?—Certainly, and that shows how far they were before their own day, and, I am sorry to add, before ours.

Is not that laid down in the First Book of Discipline?—Yes; schools in every parish, a grammar school in every large town, and a college in every city.

And an assessment on the parish to maintain that system?—Yes.

You don't make any complaint against the parish schools, that they are conducted in a sectarian spirit at present?—No; I don't think they ever were.

What you desire is a change on their constitution, to fit them for the present wants of the country?—I don't desire any change in regard to the rules which regulate religious instruction, because the law does not interfere with that matter. It is left to be decided by the heritors and the parish minister. But a change is mainly required in the mode of election. If we are to have these schools supported, as I suppose they must be, by additional rates, I think it is only fair that the public who pay these rates should have something to say in the election of the teachers.

Would you associate with the heritors and the minister, a committee of ratepayers or of parents?—I think a certain number might be chosen by the ratepayers, and a certain number by the parents.

Do you attach much importance to removing the parish minister, *ex officio*, from membership of the board?—Practically I do not; theoretically I do. I believe as long as you have any one minister there *ex officio*, you give ground for complaint on the part of other bodies. You must either put the other ministers there by Statute, or you must have none. I believe the parish minister would, in almost every case, be elected as a member of the board; certainly in every case where he has the confidence of the people, and he should not be there unless he has the confidence of the people.

You would not be satisfied with allowing other clergymen to come in?—I should prefer to have no *ex officio* members.

But practically, if matters in that respect were allowed to stand as they are, the United Presbyterian or Free Church minister would probably be elected?—I have no doubt of it.

Practically you think there would be no difficulty in conducting harmoniously such a system?—I do not think there would. I believe the ministers would work very harmoniously together, though there might in a few cases be local jealousies.

Have you, as a Church, set yourselves to erecting schools where you thought they were necessary for the population?—Not as a Church; but individual congregations have done so in connexion with their missionary operations. We have probably 100 schools of that sort, and they are model schools.

Are they connected with the religious organization of the congregation?—I rather think they are. I cannot speak as to every case; but when the schools are supported by the congregation, I have no doubt that the office-bearers are chosen from the members.

Do you attach any value to the school as a school for secular instruction, to the body connected with it?—Very little.

And you are quite willing to part with that connexion if a national system is established?—Quite willing.

Has your body refused in all cases to accept aid from the Privy Council?—In almost all cases.

You would have no objection, in a national system, to continue the present status of the heritors as *ex officio* members, owing to their position in the parish?—I think it very desirable that the Board should contain a certain proportion of heritors. It is matter of arrangement how they should be put on it, whether by

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continuing those who at present manage the schools, or by allowing a certain number to be elected by the other heritors in each parish. I have stated that when the parochial schools were instituted, the organization was of such a kind as to include almost the whole people of Scotland. Now, though most unhappily we are divided into a number of sects, it is very important to notice that we are still as much as ever at one in regard to all that constitutes the real essence of Presbyterian church government or form of worship. The great body of the people have still one Creed and one Catechism; they are agreed still that a complete system of education should include both religious and secular instruction. In all our schools the same teaching is given, and the only difference, so far as I can discern, is that one section is disposed to insist that the law should provide security for religious instruction; while the other section, desiring the same end, would provide for that simply by the action of the parents and the churches.

You are quite prepared to meet the consequences resulting from such a national system as you describe,—that in certain parishes in the Highlands the majority would be Roman Catholics, and that their education would be conducted on the principles of that body?—I would be prepared to meet that as one of the consequences of carrying out equitably a national system.

As to the teachers, would you have a central examining body?—I think the present system does very well in that respect.

You attach great value to their passing the examination of a central body?—Very great.

Considering that the religious instruction of the schools would be very much in the hands of these teachers, and that there is no statutory and no ecclesiastical security for their being efficient teachers of religion, do you attach any indirect value to their passing through Normal Schools connected with religious bodies?—I do not attach a great deal of value to that, but it might have some effect on their training.

Do you think that the various religious bodies may secure qualifications in that way which it is difficult to require from an examining body?—They might.

What is your opinion as to the need of middle-class schools?—I have always attached great importance to these. If our Universities are to be made what we would like to see them, and what they are capable of being made, the establishment of such schools is necessary. In many cases the parochial school could be made a higher school, but in some cases a new school would be needed.

Academies?—Yes, in all the principal towns.

Do you look to Government support for them, either from a central fund, or from a compulsory assessment?—I think so long as England and Ireland draw large sums of money from the national purse for their education, we could scarcely expect that Scotland should get no part of the money contributed by itself to the national exchequer; and I would prefer that Scotland's share of these grants should first of all go to the poor districts of the Highlands, to make unnecessary, or to supplement, a local rate, and that the remainder should go to intermediate schools.

You have all along contemplated, as part of a national system, that some of the money given by the State to education shall be distributed in Scotland according to the new system?—Certainly.

You think Scotland has a right to that?—I think any other course would be very unfair, so long as we are taxed for England and Ireland; though I should greatly prefer that all the three countries should cease to put their hands into the public purse for the support of schools.

Do you draw any distinction between money given by the State, and money raised by assessment in the locality?—Not in principle; but I think local support and local management always best.

Then I may ask this general question,—whether you consider an improved and more liberal and comprehensive system matter of urgent necessity?—I think it is matter of very urgent necessity. The more I see of the state of the country, the more I am impressed with that conviction.

You think the present denominational system incapable of overtaking the whole field?—Quite incapable.

Mr. Dunlop.—What do you say to the present negative test or restriction imposed upon the schoolmasters, not to teach anything contrary to the Established religion?—I believe it is of no use, except as it may enable the managers

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of a school to get rid of a teacher who makes an improper use of his official influence on the children.

Do you see any objection to acting under a system which embodied that?—None whatever.

You mentioned that you thought the ministers of different denominations would generally act quite cordially and harmoniously together as members of the board: do you think that harmony would be promoted or endangered by one of the Court being there *ex officio*, while the others were elected; or would the harmony be most likely to be secured by all of them being elected?—I think harmony would be most likely to be secured if they were all put on an equality. I do not know that the difference in the mode of appointment would cause any want of harmony among the members of the board, but it would create some unpleasant feeling throughout the country.

There are some schools put down on the Privy Council lists, in connexion with your body, as receiving grants; how have these been admitted if your body generally are opposed to them?—Our body don't think themselves entitled to interfere with individual action. If a congregation chooses to apply for a grant, the church courts do not interfere.

Mr. Ramsay.—What amount of control would you propose that the electoral or managing body should have over the teacher, so far as regards tenure of office?—I think the teacher should hold his office only during good behaviour.

Would you not propose that, under a national system, there should be some summary mode of dismissing teachers who were inefficient?—I certainly think that the power to do so ought to be intrusted to the local board.

Without right of appeal?—No; I should be inclined to give them a right of appeal to the central board. I think the central board should have the power to interfere, but I would not carry the appeal farther.

Then you think it would be part of a good national system that the teacher's tenure of office for life should come to an end?—I think so. All experience shows the extreme difficulty of getting rid of a teacher when he is useless.

Would you think it a sufficient case for the removal of a teacher if in any district he failed to secure a definite proportion of the children within easy reach of his school?—Certainly, if he failed to attain the object for which he was appointed. I regard the teacher as existing for the school, not the school for the teacher.

Lord Jerviswoode.—Would you hold the schoolmaster liable to be dismissed without cause stated?—Certainly not; but the cause stated by Mr. Ramsay is, in my opinion, sufficient.

But that would have to be found?—Certainly. I think it would be unfair to dismiss any man without telling him why you dismiss him.

Mr. Mitchell.—Do you reckon religious instruction, at all events to the extent of reading the Bible, essential to any system of education that deserves the name?—Most certainly.

That is provided for in all the schools you have spoken of in connexion with the United Presbyterian Church?—It is; I am not personally acquainted with any school, and I do not think there is half a dozen in all Scotland in which religious instruction is deliberately excluded.

These schools are managed entirely by people who take an interest in their particular districts?—Yes.

Do you think that the reading of the Bible should be universal in any system to be extended throughout Scotland?—Undoubtedly.

Mr. Cook.—Do you think it inconsistent with the principle of a national school establishment, that the minister of the Established Church should be a member of the electoral and managing body *ex officio*?—I don't think it is inconsistent. The objection is rather on the ground of fairness and equality, to selecting one minister in preference to others.

You don't think it inconsistent with principle?—I don't think so.

Do you think that the presence of the minister at the board has tended in any way to give a sectarian character to the parish schools?—I do not.

On what ground would you remove him?—The only ground is that which I stated,—equality and fairness to other ministers in the parish.

Don't you think it a natural and reasonable arrangement, with reference to a national system of parish schools, that the parish minister known and recognised by the State should be made a member of the board, though ministers of other

denominations were not members?—That presupposes the connexion between the school and the Church, which was the old form, and to which I object on various grounds. But to any one who holds the principle of a national establishment, I think that connexion very naturally follows. Rev. Dr. Taylor.

You said you would make a schoolmaster removable for mere inefficiency,—would you remove him if his school was not well attended?—If there was in the district a sufficient number of scholars to fill his school, and he had failed to secure a good attendance, I think that must arise from one of two causes, both applicable to himself: either that he is an inefficient teacher, or that there is some strong feeling against him which has ruined his usefulness there. In either case I would remove him. If his failure did not arise from inefficiency, but only from prejudice against him, which would not disqualify him for some other district, I think the central board might give him a certificate to that effect.

If a teacher were to be removed merely on the ground of prejudice against him, don't you think you would incur some danger of getting a less efficient set of men to take the office on these terms?—I would not be afraid of that, provided you gave the power of appeal to a central board, who would be quite impartial, and who would not give effect to any unfounded local prejudice.

But whether the prejudice is unfounded or not, if it actually prevails to the extent that the children don't attend school, you would remove him?—If it was not a mere temporary unpopularity, but was a strong feeling of considerable standing, I am afraid you must either remove him to some other place, or leave the school a complete wreck.

Although you said you thought there should be no clause in the Act of Parliament inculcating religious instruction, you think it highly desirable that religious instruction should be given notwithstanding?—I think so.

And that that should be secured by giving a religious character to the electoral and managing Board?—You must define what is meant by "religious character;" I would choose men whose character and position make it certain that they would attend to that matter, but I would take no test from them. I have always thought that the best of all securities for the management of any educational institution is the character of the men appointed to manage it.

Don't you think it would tend to give a religious character to the Board, that the Established Church minister should be *ex officio* a member of it?—I should think it very desirable that both the Established Church minister and the other ministers should be there; and I am quite satisfied that, unless in a very few exceptional cases, he would be there whether elected or appointed.

Mr. Black.—There are districts where the great majority of the people are Roman Catholics; I think you said you would give them the same privilege of electing a schoolmaster, who would, of course, be a Roman Catholic, as you would give to the other districts?—Yes.

How would you provide for the education of the Protestant minority in these cases?—Do you mean for their religious or secular instruction?

I mean their instruction generally, because the Protestants would not attend the Roman Catholic school?—I think you are taking for granted what experience shows not to be the case, viz., that the two sects could not agree in the same school. Now, it is a striking fact that there are, and have been all along, many schools attended both by Roman Catholics and Protestants, and where the Bible and Shorter Catechism are taught, without any objection from the former. That is the case in Glasgow, I know. I have been told that if the priests interfere and threaten to excommunicate the people, their children will be taken away; but if they leave them alone, the people make no objection.

Do you suppose that, in any general system of education, we could proceed on the ground that we had reason to believe that the Roman Catholics would attend the schools?—Assuredly. I think we have evidence to that effect. I would make it a rule in any school, that the children should obtain secular instruction without being obliged to receive the religious instruction, if their parents disapproved of it. That is done now, though there is no law compelling it.

But would you deprive them altogether of religious instruction in their own faith?—Certainly not; but if they refuse to take the instruction provided in the school, let them provide it for themselves.

How would you provide for that in the national school?—I would not provide for it in the national school.

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Would you not allow them the use of the school before or after school hours, that they might give religious instruction to the children of their own faith?—I do not think that is a matter of any consequence. I believe they would not care for such a provision; they have their own chapel; and it introduces a distinction of sects among the children in a way that would tend to mischief rather than good.

Mr. Mure.—In regard to the schools which the United Presbyterian body have in the country, have your Presbyteries any superintendence of them?—None.

Would you object to any presbyterial superintendence in the national schools similar to that which at present exists in the Established and Free Churches?—I would not object to it, but it is undesirable. The ministers in each parish should be invited to the examination; I would not go beyond that.

Don't you think some such superintendence would have a good effect in stimulating the school, by the knowledge that such an examination would take place?—It might, but I never found the examination by the Presbytery practically of any great value.

Are you cognizant of the terms of the 19th section of the Act of 1851, by which great facilities are afforded for the dismissal of teachers?—I am.

Would you take the mere fact of inefficiency, without being able to trace it to negligence, as a cause of dismissal?—I would take the fact of inefficiency.

As proved by non-attendance?—Yes.

With an appeal to the central board?—Yes.

Mr. Smith.—You have spoken of the Privy Council system as a denominational system; but the Privy Council don't give aid merely to churches; they give aid to every one who chooses voluntarily to establish a school?—Theoretically that is the case; but they avowedly contemplated educating the people through Church organization. The founder of the scheme avowed that. I tried to get the committee to give assistance to non-denominational schools, and I found no end of obstacles,—so many, that I saw they did not wish to encourage such schools.

But, in point of fact, they do give to schools which may be called undenominational?—Yes, to some.

You have said that the system has a tendency to create unnecessary schools in some places, and a want of them in other places: would that be corrected by a re-arrangement of the system?—No, because the foundation of the system is to give assistance only where local efforts raise a certain amount.

You don't think the system could be relaxed, so far as poorer districts are concerned?—I don't think it could to any extent worth while.

You have spoken of the educational destitution in Glasgow: is there anything in the grants, as administered by the Privy Council, that has prevented education there?—No; farther than that, as a condition of assistance, they require such an amount to be raised by local efforts, that it is beyond our power to establish a sufficient number of schools. I could fill another school in Cowcaddens to-morrow if I had one, but my congregation has done as much as it is able to do, in establishing the school which it at present supports.

Then you think the aid should be given for sustaining the whole school, irrespective of any voluntary subscription?—I object to the whole system out and out. I think it very partial and unfair; it gives its grants on terms which necessarily exclude a large portion of the people, and these the most necessitous, from any share; and I object to it all the more on this account, that one religious body so excluded are very zealous national educationists, and they ask nothing except what they are willing to share with every other denomination.

You don't see any way in which the radical evils of the Privy Council grants can be corrected?—No; the two systems—the national and the denominational—are so antagonistic that they can never be brought to work harmoniously together. Experience has shown that hitherto.

The Lord Advocate.—You gave us some statistics as to Glasgow: can you put us in the way of verifying these?—I can; and I have one or two additional facts to mention. The late Mr. Stow, who took a deep interest in educational matters, gave me the details of an examination he made, which I think important and instructive. He examined, along with some other friends of education, four factories in different parts of the city, selected solely because the masters were willing to afford facilities for the examination. All the workmen

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in the factories were examined, and they numbered 798: young men and women from all parts of the city and suburbs; out of these, 126 had never heard the name of Jesus, save from the mouths of profane swearers; 474 could read so little and so badly, that, for all practical purposes, it might be said that they could not read at all; and of the remaining 224, who could read a common book, very few had any perception of the meaning of the words they were using, or could answer intelligently a question in reference to what they had read. Now it has occurred to me to suggest to the Commission the desirability of taking specimen districts, and examining thoroughly everybody in the district, to see how many cannot read, and how many are at school.

When was Mr. Stow's examination made?—In 1845; and the facts which I have previously mentioned were intended to show that matters are not better since then, but rather worse.

In regard to the other experiment which you mentioned, can you give us the means of corroborating what you have stated, by those who took the kind of census you referred to?—Certainly; Mr. Somers is now the editor of the *Morning Journal*. His investigations were published each day in the *Mail*, and the result was given in a pamphlet, which I put in.

I suppose, in any general system, you would contemplate some machinery for ascertaining the wants of the country, and supplying it from time to time?—Certainly; I think an inspector ought to be employed in examining closely into the state of the districts, and reporting to the general board.

And I suppose you contemplate Government assistance to supply the deficiency, though not in the way of denominational grants?—Yes.

The grants are always religious, are they not?—Always.

That is to say, without some guarantee for religious instruction, the Privy Council will not give grants?—Yes; they are pretty easily satisfied on this point in some cases, but they always stipulate for some guarantee.

You were asked about the schoolmasters' responsibility to the managers: how do you think a system would work, based on the Universities as the governing body, superintending the middle schools in the burghs, and the parish schools in the parishes, with a power in the local board to elect the schoolmaster, and settle the school-fees, but with only a power of complaint to the central University body with reference to the dismissal of the master?—I don't think the Universities, as a body, are well fitted for that. They would supply one element—that of men thoroughly conversant with education, but I think they want some very important elements which practical men can alone supply.

The schoolmaster element?—Yes; but I would like to have men of business also on the board.

You don't think the board could be constituted out of the Universities as they stand?—I don't think so.

Are the dissatisfaction with the existing system, and the desire for a national system, pretty universal among United Presbyterians?—I think almost universal. There is a small but highly respectable body who approve of the voluntary system of education, but many even of these would hail this change as a great improvement.

They are all discontented with the present system?—Yes. I may mention that, acting as secretary to the Education Association, I have come in contact with many members of the Established Church. The resolutions on which the Association was based were signed very largely by members of that Church; and of the names appended to the last memorial which I sent to Lord Palmerston, five or six years ago, one-third were names of leading laymen of the Established Church. Among others, there were Mr. Robert Stewart, Lord Provost of Glasgow, and other three or four ex-Provosts of that city, Mr. W. West Watson, Mr. Andrew Bannatyne, the late Mr. Robert Lamond, Mr. Alexander Graham, Mr. Tennent of St. Rollox, Mr. Walter Buchanan, Mr. Napier of Shandon, Bailie Mitchell, Councillors Watson and Dallas, etc. These gentlemen and others cordially assisted in promoting a national system, and have contributed liberally to carry on operations.

Mr. Dunlop.—You are aware that in the burgh schools, as distinguished from the parish schools, the tenure of office of the teachers is the will of the magistrates, who may remove them on reasonable cause assigned?—Yes.

That is the sort of footing which you wish the matter placed on?—Precisely.

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Have you found that the burgh teachers are an inferior class to parish teachers?—Far from it. I think they are model teachers.

That tenure does not prevent the magistrates from getting the best teachers?—Certainly not. I may mention another case; in St. Andrews, where the grammar school and the parish school were combined with Dr. Bell's school. That school is under the charge of a board, composed of the Sheriff of the county, the Provost of the town, and various other persons; the tenure of office is at pleasure, and I don't think that in all Scotland you will get better teachers than there are in that school. So far from the tenure of office being an objection, some of the best teachers in Edinburgh have offered themselves as candidates when vacancies have occurred.

The Lord Advocate.—Do you not think it would be better to vest the dismissal of the teachers in some central authority than in the local board?—Practically it would come to the same result. I should not object to that.

The Chairman.—Have you anything else to add?—As a specimen of the state of education among the lowest class in the country, I would refer to the Fourteenth Report of the General Board of Directors of Prisons in Scotland for 1853, which shows that out of 22,000 prisoners, 4685 could not read, 9972 could read with difficulty, 7371 could read any common book easily; 10,695 could not write, 1 in 10 could write well, and only 284 had learned more than mere reading and writing.

Have you got the nationality of these prisoners? How many were Irish?—I cannot say. I omitted to state, in connexion with Glasgow, when the inquiry was made in 1857, that while there were only 213 day-schools in the city, there were 40,000 children between the ages of 5 and 10; all the schools, good, bad, and indifferent, taken together, could not contain these children. I may also mention a fact which will account for the inefficiency of many of the schools in Scotland: that when a return was made, a number of years ago, of the income of the adventure schools, there were 1181 in which the income was under £35, the average being £19. I mention this fact to show that the mere existence of schools does not prove that the children who attend them are receiving a good education.

Saturday, 26th November 1864.

THE DUKE OF ARGYLL IN THE CHAIR.

REV. MR. M'LAUCHLAN,—*examined.*

Rev. Mr. M'Lauchlan

The Chairman.—Would you state what is the position you hold, and what your opportunities of observation have been, in reference to the subject of education?—I have been for many years convener of the Free Church General Assembly's Mission Scheme for the Highlands and Islands, in connexion with which there are two associations of ladies, which maintain about 61 schools. These associations have been very much under my superintendence. I am also secretary of the Gaelic School Society.

Which is not exclusively connected with the Free Church?—No; and I am at present convener of the Normal School Committee for Edinburgh.

Then you have had large opportunities of observation and knowledge in regard to the state of education in the Highlands and Islands?—I have.

What is your opinion as to the sufficiency of the present system in reaching the masses of the population in the Highlands and Islands?—I don't think it sufficient.

You think there is a great want of education in the Highlands and Islands?—There is a want of education in two respects: there is a want of schools, and there is a want on the part of the people of a due appreciation of the schools that exist. There is both a want of schools and a want of education; perhaps the want of education extends farther than the want of schools.

What is your opinion as to the bearing of what is called the denominational system of education upon the deficiencies of education in the Highlands?—The

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denominational system has advantages. In the first place, I think it has the advantage of securing the religious element in education, and educationally it has this advantage, that it secures very effective local supervision, and also a certain amount of emulation, which has been upon the whole favourable to education in the Highlands. At the same time, there is perhaps an undue expenditure of effort, which might be saved by a different system.

In particular localities, you mean?—Yes.

Do you know personally any districts in the Highlands, in which the rivalry of the various sects, which is encouraged by the denominational system, has led to an over-effort in planting schools?—They are becoming fewer. Within the last few days I have been making some inquiries in regard to that very question, and I have made up a sort of table showing the result. I find, for instance, that in several cases, since the passing of the late Parish School Act, the Free Church schools have gone down; that is to say, parties have allowed them to go down, in order that the whole people may join together in taking advantage of the parish school.

Has that taken place in many cases?—In several. I can specify the cases of Latheron, Eddrachillis, and Lochcarron, and there are others.

That would imply that, till the passing of the late Parish School Act, there were schools which had been placed in unnecessary proximity to each other?—There were reasons for the placing of these schools.

There were causes, whether there were reasons or not?—We held them to be reasons, inasmuch as they originated in the expulsion of teachers from the parish schools.

But as matter of fact, this alteration implies that before public satisfaction had been given in respect of the changes in the parish schools, to the Free Church especially, there had been an unnecessary multiplication of schools in some cases? I should say so.

Do you think this dropping of Free Church schools has gone on to a large extent in the Highlands?—It could not go on to a very large extent, because the evil did not exist to the extent supposed by many.

Whatever the evil did arise from, it is in the course of abatement since the passing of the Parish School Act?—Unquestionably.

And that abatement will go on?—Yes; but I should like to impress on the Commission, that minute inquiry brings out that the evil itself did not exist to the extent which was generally imagined, and which I myself at one time imagined, because schools were not in very many cases placed in immediate proximity.

But you think the tendency of the denominational system was to distribute the schools unequally?—On the whole, I should say so.

Not with reference to the necessities of the population, but with reference to the religious feeling of the localities?—To a considerable extent.

Do you think that any further change in the parochial system in Scotland is necessary to give complete public satisfaction to all parties in Scotland?—I think so. Does your Grace refer simply to the existing parish schools?

Yes.—I saw this very morning a teacher from an extensive Highland parish, who told me that they had a good parish school in the parish, but that the people could not be induced to send their children to it, to the extent which might be done.

Although it was well and efficiently taught?—Yes.

And that from denominational feeling?—To some extent. He said that very likely the greater amount of fees at the parochial school might have told, but both causes were in existence.

Under these circumstances, does your Church feel it necessary to keep up schools in some cases which they would not otherwise do?—Not in that case. In that case the congregational school of the Free Church has been allowed to go down.

Because there is no sufficient reason why the children should not be sent to the parish school?—I don't think there is sufficient reason.

It has been allowed to go down by the authorities of the Free Church, because there is no sufficient reason for keeping it up?—That is one of the causes unquestionably, and perhaps the leading one.

Your opinion is, that the want of education in the Highlands arises to a great extent, not so much from want of schools, as from the ignorance of the population,

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and from their indifference to the education of their children?—From both. In many cases the want of schools arises to a large extent from the indifference of the people to education.

Don't you think that there are large portions of the Western Isles in which, in respect of distance and accessibility, the schools are much too few?—Yes.

Do you think it impossible under the present system to get such an amount of local effort as to supplement that want?—It has not accomplished the object hitherto, at all events, and one might almost infer that it could not be done; yet there is a great deal done from without, by parties who take a beneficent interest in the matter.

What is the system pursued by the Ladies' Society connected with the Free Church Mission Scheme?—The Ladies' Society has two objects in view; one is to educate the poor, and the other is to train up students for the ministry. Some years ago, our Church felt the want of students for the ministry; and many parties, who were very willing to encourage students to come forward, thought that it would be most injurious to do it as a mere matter of charity, and they set themselves to carve out some means of employing young men who might desire to prosecute their studies for the ministry. The scheme has grown from seven to upwards of sixty schools. Our plan is to take a student, and plant him down for seven months in the year as teacher.

A student from the Normal Schools?—They are all University students; some of them began as Normal School students, but we understand that they go to College. At the end of the seven months, the student procures a substitute, by whom the school is taught for five months, and during that time the student goes to College. As a return for the student's labours for the seven months, he is not only paid a salary, but he receives a bursary of £10.

What amount of salary do you generally pay them?—The salary is very small. It is at the rate of £20 a year, with anything they may get in the way of fees (which is not much), but the £10 is additional.

Do you ask anything from the proprietors on whose property the school is placed?—Many of them are most liberal.

Do you ask them for anything?—Sometimes we do.

Do you make the planting of the school a condition of their giving something?—Latterly we have made it a condition that either the proprietor or some of the people should contribute a portion of the salary.

What selection do you make of the localities: do you choose strictly with reference to the wants of the population?—Strictly with reference to the wants of the population. I am not aware that one of these schools has been planted where it was not required.

Then so far as the operations of that society go, it is strictly for the purpose of supplying the educational wants of the Highlands and Islands?—Strictly so; while we also have the denominational object in view of training young men for the ministry; planting them down there, making them hold religious meetings, and accustoming them to public speaking.

Does not the system of placing them five months in the year at College lead to inferior substitutes being put in their place?—We did feel that to some extent, and we now allow the teachers to come to College only every alternate year.

Do you make any regulation in regard to the character and qualifications of the substitutes?—We require to be satisfied that they are able to teach, by certificates from ministers and others; and we sometimes find that the substitutes are better teachers than the principal teacher.

Looking to your knowledge of the state of education in the Highlands, what is your opinion as to the necessity or expediency of having a national system, and putting an end to the denominational mode of giving Government grants?—I think a national system would be better, provided that the important objects required in a good education can be secured. It may be difficult to accomplish this, but if it could be done, I think a national system would be preferable.

Have you formed any opinion as to what such a national system ought to be?—I have thought of it; but I must acknowledge that the more I think of it, the more the difficulty seems to increase, in certain aspects of it.

Do you refer principally to the difficulty in respect of the religious element?—I put that certainly in the foreground.

Do I understand you to imply that you would not be content, in respect to

religious education, to leave it entirely to the ratepayers, or others who may have the management of local schools?—I would not. Rev. Mr. M'Lauchlan

What is the evil you apprehend from leaving that matter to the management of the local parties?—I am not sure that local parties are so much impressed with the importance of that element in education as I would desire them to be, from my experience of the management of schools by local parties. I have often seen them select teachers of a very indifferent character, if they had certain other showy qualifications which commended themselves to such a body of men as we are likely to get.

What cases do you judge from?—I don't know that I am at liberty to mention them.

What class of schools do you judge from,—adventure schools?—Yes, adventure schools principally.

The Commission has been informed that, in almost all the schools of Scotland, whether adventure or denominational, the same system of religious instruction is practically pursued: is that consistent with your observation?—That statement may admit of great varieties. It may be said that practically the same system of religious instruction is pursued, and yet great differences may exist under that general statement.

What is the composition of the local bodies, in respect of which you have observed the unsatisfactory working of the local election of schoolmasters?—Small country farmers and labourers, who are very likely to be the parties electing in many of our poorer parishes.

Don't you think that, if the new system were simply an extension of the existing parochial system, and the heritors and wealthier classes in each parish continued to be the principal element in the managing body, there would be a fair security for the selection of good masters?—One would hope so; and yet I think the present system would admit of very decided improvement.

But there would be as great security as there is under the present system?—Yes, because it would be the same system.

Supposing there was added to the heritors of the parish a certain proportion as representatives of the ratepayers or the parents, would you consider that an unsatisfactory body to whom to leave the management of the schools?—I have always thought that, in the interest of education, the minister should form part of the managing body *ex officio*.

Do you mean that the parish minister should be on the board *ex officio?*—I should prefer his being so, provided the other ministers were there along with him.

If they were eligible?—I should prefer that they were put on the same footing, not in the interest of my own denomination, but in the interest of education; because, in all the northern counties, the number of people connected with the Establishment is so small, that if the Established Church ministers were in *ex officio*, and the men who are the real ministers of the people, and to whom the people look up, were merely eligible, so far from preventing jealousies, I think the result would just be the opposite.

Would not the result be, that the other ministers would practically be elected members of the board?—But that would be putting them in a very unpleasant position, compared with the others.

Do I understand you to insist on this, that in any Act passed with reference to education in Scotland, the ministers who are to be members of the board shall be specified?—I should like that.

Do you think that a feasible proposition?—I do, provided the clergymen to be specified are men in whose hands I thought the education would be safe.

In certain Highland parishes where the majority are Roman Catholics, would you have the Roman Catholic priest a member of the board?—If the national system is to be based on the Bible and Shorter Catechism; if it is to be a Presbyterian system for a Presbyterian country, I don't see how a Roman Catholic priest could be a member of the board. Besides, in the island of South Uist, there is a population of 5000, and there are 4 Free Church schools, 3 Established Church schools, and not one Roman Catholic school.

And the population is mainly Roman Catholic?—There are 4000 Roman Catholics, and about 1000 Protestants.

Do the Roman Catholics freely attend these schools?—Freely.

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And secular education is given them, without it being insisted on that they should attend the instruction in religion?—Yes.

Is it your opinion that the Act establishing a national system should provide that the Bible and Shorter Catechism should be taught in the schools?—I don't say that the Bible and Shorter Catechism should be taught to every child in the school, because that would be unfair in the case of Episcopalian or Roman Catholic children; but I hold that a national system for a Presbyterian country should be based on the Bible and Shorter Catechism.

Do you insist on the Act of Parliament prescribing that as the basis of the religious instruction?—Unquestionably, in every case in which the parents of the children do not object.

Then you are not content to leave that matter to the management of the local boards?—No, I am not.

Mr. Ramsay.—You mentioned certain specimen districts in which the Free Church schools had been discontinued since the Act of 1861: what were these?—There is the case of Latheron in Caithness, where there was a large and very prosperous Free Church congregational school, which has been dropped since the passing of that Act. There is also the case of Gairloch on the west coast; there is no Free Church school there now; the parish school is the only school.

Have you known cases in which a Free Church school was set down beside an efficiently conducted parish school?—Yes; I have known cases in which a Free Church school has been planted within a mile of a tolerably well conducted parish school.

And that in consequence of the religious feeling of the people preventing them from sending their children to the parish school?—Yes; and the whole children at once going to the Free Church congregational school.

Mr. Davidson.—Would you exclude, by Act of Parliament, the Episcopalian or Roman Catholic clergymen from the local board?—I said before, that if the new system was to be a system of education for a Presbyterian country, based on the teaching of the Bible and the Shorter Catechism, that would necessarily imply that the Episcopal and Roman Catholic clergymen could not be *ex officio* members of the board.

It would be no objection to an Episcopalian that the Bible was taught; but would you think it necessary that the Act of Parliament should provide that the Shorter Catechism should also be taught?—I think so. I am convinced that without that, the education would not meet the wishes or requirements of the people of the country generally.

How would you provide for the religious teaching of Episcopalians or Roman Catholics, in a parish where they were numerous, for example?—We find at present that both Roman Catholics and Episcopalians send their children to the parish school, but they decline being taught, and are not usually taught, the Shorter Catechism.

They do not decline being taught the Bible?—No; indeed Roman Catholics, for the most part, read the Scriptures. I have known very few cases in which Roman Catholics have forbidden their children being taught the Scriptures.

And in order to a uniform national system, you would still think it objectionable if the Shorter Catechism were not taught in the Schools?—I would.

Mr. Cook.—You have said that you would have the right of Dissenting Presbyterian clergymen, as well as of clergymen of the Established Church, to sit at the local board recognised by Act of Parliament?—I said I thought that desirable in the interest of education,—not of denominations.

Is it not the case that there are some sects of Presbyterian Dissenters who hold any connexion between the Church and the State to be unlawful?—I would not say that all Presbyterian ministers should be admitted *ex officio* members of the board. There must be a limit somewhere. Presbyterianism includes so many small sects, that there would be no end to the confusion of having them all members *ex officio;* but I referred to the ministers of the leading Presbyterian bodies,—the Established Church, the Free Church, and the United Presbyterian Church.

Would there not be some difficulty in drawing the line?—That is perfectly true; but there would be difficulty connected with any arrangement. If there are ministers of large congregations,—the Reformed Presbyterians, or others,—it

would be open to them to be elected, so that they would not be excluded altogether, or provision might be made for their admission *ex officio*. Rev. Mr. M'Lauchlan

Don't the United Presbyterians hold an alliance between the Church and the State to be unlawful?—They do,—some of them; I don't say all; not as a body. I am not aware that it is a term of communion in the United Presbyterian Church.

Don't they hold the alliance between Church and State, as it now subsists, to be unlawful?—I am not aware that they do, as a body. I have met with United Presbyterians just as strongly in favour of a national recognition of religion as any other body.

Are you aware whether the Free Church hold the present connexion between Church and State to be unlawful?—They don't hold the connexion between Church and State to be unlawful in all circumstances.

But as it now stands?—I don't know that that is implied in their testimony. They object to certain things as unlawful in the existing relation between Church and State. They would not put it in such strong terms as you put it.

Assuming that there is among Presbyterian Dissenters an objection to the alliance between Church and State, don't you think it possible that the State might have a constitutional objection to the recognition of any *ex officio* right to be enjoyed by the clergy of these Churches?—It is for the State to judge of that; but it has so far acknowledged the principle in the present denominational grants. I don't see that, when the State has already acknowledged the principle of aiding other bodies besides the Established Church, in the matter of education, it could object to a more formal recognition of the position of these parties.

Is the grant not given rather as matter of grace than as matter of right?—We don't hold it to have been mere grace.

Mr. Black.—You said that in some districts, even where there was an efficient parish school, the children did not attend it, owing to religious feelings?—In some cases there are.

If these schools were placed on a liberal system, not exclusively connected with the Established Church, do you think the children would not attend them?—The objection to attending is a religious one, and that would depend very much on the arrangements to be made for the new system. I could conceive a national system, against which these prejudices, if you call them so, would be stronger than against the existing schools.

You said that in South Uist there were 4000 Roman Catholics and about 1000 Protestants: suppose the Roman Catholic priest were to issue orders that the Roman Catholic children were not to attend the Protestant schools, where the Bible is read and the Shorter Catechism taught,—how would you provide education for them?—I have always contemplated the necessity of doing something separate for the Roman Catholics, to meet the peculiarities of their case.

Then you would have no objection to Government making provision for Roman Catholic schools, and giving grants for their support?—No. I know that objections exist to that on the part of many; but I don't see how otherwise, in the interest of education, the peculiarity of their case can be met. It is, however, perfectly true that at present the Roman Catholics take advantage readily of our schools; and I know of no case in which a priest has interfered to prevent their attending, so far as secular education is concerned, and even the reading of the Bible. And more than that, I believe that if the priests were to do so, the people would not obey them.

Do the Roman Catholic children in South Uist attend school as largely as the Protestant children?—They do. I examined lately a school in South Uist, taught by a young student of the Free Church, in which there were about 100 Roman Catholic children.

Mr. Ramsay.—At what station is that?—Garrynamone, on the south end of South Uist; and a more interesting group I have hardly ever examined.

The Chairman.—Did you examine them in the Bible?—Yes; and they were very intelligent. In South Uist we have from 300 to 400 of the Popish youth under education.

Mr. Mure.—Was your examination of these children in the Bible confined to those portions of it which did not raise any doctrinal question?—Yes. I would have felt it very unwise to examine them with reference to the Virgin Mary, or disputed points. I would have thought that unfair; but I examined them on the doctrine of the Atonement, and other similar doctrines.

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So that in that school the Roman Catholic children had attended the Bible teaching?—They had. No doubt the teacher was careful to be judicious, and not to excite prejudice.

Is it optional to the Roman Catholic children to attend the Bible-teaching there?—It is; but I don't know an instance of their having refused to attend. We make it known very distinctly that our object is not to proselytize, but to instruct. If proselytism should be the consequence, we are very glad; at the same time, that is not the object.

The Chairman.—Was that a Ladies' Society school?—Yes, a Glasgow Ladies' school.

Mr. Mure.—You mentioned certain localities where children were not sent to the parish school from religious objections,—what were these objections?—It was an objection arising from the whole proceedings of 1843.

From the parish schools being confined to the Established Church?—Yes.

But since the passing of the Act of 1861, some of the Free Church schools have been given up?—Yes.

The Chairman.—Would you hand in the returns to which you have referred?—I shall send it in a more intelligible shape to the Commission. I have also reports of the Ladies' Association for last year, and of the Gaelic School Society for last year, which I shall be glad to put in.

Mr. Mure.—Was there any change of teacher in the parish schools where the Free Church congregational schools had been given up?—I am not aware.

Do you think it would be necessary, under a national system, that the denominations should be named in the Act of Parliament, the clergymen of which were to be members of the local board *ex officio?*—I think that would be necessary if the ministers were to be admitted at all.

You would not be satisfied with a general provision that the clergy of all denominations should be members of the board *ex officio?*—No, I would not, because that might admit men who should not be on the board.

What denominations, besides the Established, Free Church, and United Presbyterian, would you admit?—These were the only ones which occurred to me, as representing the large Presbyterian bodies of Scotland.

There are a good many Reformed Presbyterian Churches in certain parts of Scotland, are there not?—Still, you must have a limit somewhere; and it might be impossible to provide for the admission of all, including Old Lights and New Lights.

But the Old Lights have merged to a considerable extent in the United Presbyterian body?—No; a body of them have merged in the Free Church, and another small body of them stand still aloof. One would hardly say they were entitled to be admitted by Act of Parliament; and there are several small fragmentary bodies of that sort.

The Reformed Presbyterians have a regular synodical meeting?—Yes; and it strikes me that if there did happen to be large congregations of some of these smaller bodies in a parish, it would be fair enough to allow their minister to be admitted *ex officio.*

Mr. Black.—Can you provide for all these specialties in an Act of Parliament?—No; that is just what I say.

Mr. Smith.—Does the national system, which you prefer to the present system, embrace a rate over all the district for such schools as are necessary?—I presume that will be necessary; and yet I can see that one of the greatest difficulties will be connected with the imposition of a rate, because, if it is to be imposed by a board elected by local parties in most of our rural parishes, I should fear they would very often sacrifice the existence of the school rather than fix a sufficient rate for its support. I can see how two parts of a system of that kind would be antagonistic: the necessity for the school, on the one hand, and the necessity for the rate, on the other. Local parties would be very unwilling to impose sufficient rates for the maintenance of schools. That I hold to be a great difficulty in connexion with a national system.

In Highland districts, would it not be difficult to raise a higher rate than is at present raised for schools?—I think so.

Is there any way in which it might be supplemented?—It might be supplemented by a Government grant.

That grant being distributed not with reference to the amount raised by the

parties, but with reference to the wants of the district?—Certainly, because I think one of the great drawbacks in connexion with the present system is, that the grants are distributed, not in accordance with the exigencies of the case, but according to the sum raised in the locality, so that the poorer districts are not overtaken at all. Rev. Mr. M'Lauchlan

You think that is one of the disadvantages of the present system, in reference to the Highland districts?—Decidedly.

Assuming that a national system was established, and that there was to be a general rate, do you contemplate that voluntary schools should also be aided by Government grants?—I have not thought of that question.

I think you stated your opinion to be, that Roman Catholic schools should be aided by Government grants?—That is my idea, because I don't see how otherwise the difficulty as to them can be got over.

Then your national system would embody a system of grants?—Yes, for special cases.

Do you not think that the Government grants could be distributed so as to meet the wants of the country, without reference to any national system?—If the Government grants for the Highland districts were given, not with reference to what the people could pay, but with reference to the actual necessities of the case, would that not be sufficient, without a national system?—I think it would.

Lord Polwarth.—In the national system, you assume that the parties who manage the school have also something to do with the rating of the parish?—Yes.

In the Highland districts also, who would be the parties who would rate the parish?—I presume the board of management, however it might be constituted.

Would they impose a rate on themselves, or a rate on the land?—I contemplated a rate on the parties themselves, in addition to the rate upon the land.

You propose that the managing body should be elective?—Partly elective and partly *ex officio*.

And you would give them a power to rate the inhabitants of the parish, in addition to the rates which the heritors now pay?—I spoke of that, because it was in the last education bill, and I thought it likely to be embodied in any new measure.

It is new, is it not, in legislation?—No, it has been acknowledged in the management of the poor.

Would you admit the parents to the board?—That is a very difficult question. I think it is but fair that in some sort of way the parentage should be acknowledged, either as parents or representatively otherwise. Perhaps the fairest mode would be to follow out the system already adopted in the poor-law, of fixing the parties to be assessed, and giving them the management.

Then the board would consist of parties elected by the parents, parties elected by the ratepayers, the clergy *ex officio*, and the heritors?—I think that would form a very fair board.

Do you think they would work pretty well together?—I do, and for this reason, that education is one of those matters on which men are found generally to agree to an extent to which they don't agree on any other questions.

When the religious element is introduced?—Yes, even when the religious element is introduced. I believe that by giving all parties their say, so to speak, you will be able to deal with the religious element in a way that you could not do if you exclude any of these parties from having anything to say in the matter.

Do you think the schoolmaster would act easily or pleasantly under a board so constituted?—No doubt of it.

The Chairman.—In regard to the reluctance or carelessness of parents in sending their children to school in the Highlands, do you see your way to the possibility of a compulsory clause, such as is adopted in regard to factories?—I should be sorry to see that, and one of my reasons for wishing ministers to be admitted *ex officio* to the board is this: ministers have hitherto been the great educationists; especially in the Highlands, they use their influence in inducing the people to send their children to school. There is no influence equal to theirs over the great body of the working people in the Highlands; and I believe the way to get over the difficulty of the people not sending their children to school is, as far as possible, to strengthen the position, and maintain the influence of the

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ministers over their minds. I was long the minister of a Highland parish, and I have often had to urge the people to send their children to school.

Does your society exact fees in the Highlands?—We exact fees in the way of getting parties to contribute a sum—say £5 or more annually; in certain cases that is borne by the proprietor, as, for example, by Sir James Matheson, and there the people get education gratis; in other cases the wealthier parents contribute, and the poorer classes get their education gratuitously. I may add that your Grace (the Duke of Argyll) has contributed to the support of some of these schools.

You don't exact a regular scale of fees?—No; it is a most difficult thing to get the poorer people in the Highlands to pay any fees.

Is there greater indifference to education in the Gaelic-speaking portion of the Highlands than in the low countries?—I am not able to speak of the low countries; but I suppose the same thing exists there.

Does that indifference to education exist among the crofters in the Western Highlands?—Yes.

People who hold land?—Yes, a certain portion of them; and yet you will find among these crofters people who will make any sacrifice to get their children educated.

Do you see any objection, in point of principle, to the State insisting on the education of the young, where the parents are indifferent?—I would not like to give a decided opinion on that point. I feel an objection to any compulsory clause.

You are aware that such a clause has been adopted in the large manufacturing towns in England?—I am.

Do you see any difference in principle between children employed in rural labour and children employed in factory labour?—There is no difference in principle, but I don't give any opinion on the principle in either case.

Do you think that practically it would not be easily applied in the rural districts?—1*st*, I am not sure if it is right; and 2*d*, It would be difficult to have it applied.

Mr. Davidson.—What is the difficulty of applying it in rural districts more than in the towns?—I did not say there was any more difficulty.

Mr. Dunlop.—How would the fact of clergymen being members of the local board give them an additional influence or an additional stimulus to get children to attend school?—I think it would give them a position connected with education, and an interest in it, which they would not otherwise have.

Do you think that, as pastors of congregations, they would not feel sufficient interest in getting the children educated?—As pastors of congregations, they have not the same position and influence in regard to education that they would have if they were members of the board *ex officio*.

Suppose they were merely eligible to be elected, do you doubt that they would be elected?—I replied to that question before; but I would say in addition that I should not like, so far as I myself am concerned, to be made the subject of a canvass in a parish, even if the whole people in the parish were connected with my congregation. It is a most unpleasant position for a minister to be put in. Supposing the heritors in the parish to be opposed to his election, it would be most unpleasant for a minister to be made the subject of a canvass, and to be voted against by his own people. Were I a minister in a country parish, I would not allow myself to be proposed as a party to be so chosen.

Mr. Davidson.—Then, so far as you are concerned, you see no alternative between the Act of Parliament insisting on your being a member, and your not being a member at all?—So far as I am concerned.

Lord Polwarth.—You think it would lower the position of a minister of any denomination?—I think so.

The Chairman.—It is your opinion that the deficiency of the present system in the Highlands and Islands is so great, that it is a matter of first importance that some change should be adopted?—I do think it is very desirable that something more should be done for education; first to increase the number of schools, and then, if possible, to secure a better attendance of the children. Both these objects urgently demand that something should be done.

CASES SELECTED TO REPRESENT THE STATE OF EDUCATION IN THE HIGHLANDS. Rev. Mr. M'Lauchlan

LEWIS.

I. *The Parliamentary Parish of Knock.*

1. The population is about	2000
2. Established Church schools,	None
3. Free Church schools,	3
4. Gaelic schools,	1
5. Average attendance at the three Free Church schools,	300
6. Additional schools required in this parish,	2
7. The attendance should be larger by	One-third

II. *Parish of Uig.*

1. Population,	2878
2. Established Church schools,	1
3. Free Church schools,	3
4. Gaelic schools,	1
5. Average attendance at Free Church schools, each	75
6. Additional schools required,	2
7. The attendance should be larger by	One-third

HARRIS.

I. *District of Tarbert.*

1. Population, about	2000
2. Established Church schools,	None
3. Free Church schools,	5
4. Gaelic schools,	1
5. Average attendance at Free Church schools, each	50
6. Schools required,	2
7. Attendance should be larger by	One-third

SOUTH UIST.

1. Population,	5358
2. Established Church schools,	3
3. Free Church schools,	4
4. Roman Catholic schools,	None
5. Average attendance at Free Church schools,	55
6. Additional schools required, at least	2
7. The attendance should be larger by	One-third

SKYE.

I. *Parish of Sleat.*

1. Population,	2330
2. Established Church schools,	4
3. Free Church schools,	3
4. Gaelic schools,	1
5. Average attendance at Free Church schools,	50
6. Additional schools required,	1
7. The attendance should be larger by	One-half

II. *Parish of Strath.*

1. Population,	2664
2. Established Church schools,	2
3. Free Church schools,	3
4. Gaelic schools,	1
5. Average attendance at Free Church schools,	70
6. Schools required,	2
7. Attendance should be larger by	One-third

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III. *Durinish.*

1. Population,	4775
2. Established Church schools,	3
3. Free Church schools,	6
4. Gaelic schools,	2
5. Average attendance at Free Church schools,	60
6. Additional schools required,	2
7. The attendance should be larger by	One-half

MAINLAND.

I. *Lochcarron.*

1. Population,	1592
2. Established Church schools,	1
3. Free Church schools,	3
4. Average attendance at Free Church schools,	50
5. Additional schools required,	1
6. The attendance should be larger by	One-fourth

II. *Lochbroom.*

1. Population,	4862
2. Established Church schools,	4
3. Free Church schools,	3
4. Gaelic schools,	1
5. Average attendance at Free Church schools,	70
6. Additional schools required,	Several
7. Attendance should be larger by	One-third

III. *Latheron.*

1. Population,	8571
2. Established Church schools,	3
3. Free Church schools,	6
4. Average attendance at Free Church schools,	80
5. Additional schools required,	Several
6. Attendance should be larger by	One-third

The following Free Church congregational schools have been closed since the passing of the Parochial School Bill in 1861, and there may be others with which I am not acquainted :—

Gairloch. Eddrachillis. Lochcarron. Latheron.

In two localities Established Church schools have been placed in the immediate neighbourhood of Free Church schools :—

1. Barra, where the parish school has been removed to the immediate neighbourhood of the Free Church Ladies' school.
2. Brakish, parish of Strath, Skye, where a district school connected with the Established Church has been planted in the near neighbourhood of the Free Church Ladies' school.

THOS. M'LAUCHLAN.

Edinburgh, 26th November 1864.

REV. DR. BEGG.

Rev. Dr. Begg.

The Chairman.—Have you held any official position with reference to the educational scheme either of the Free Church or any other body ?—No, not in regard to the Free Church, beyond being a member of the committee ; but I have been a minister in three different towns in Scotland, and in a country parish, and I have had to do with education pretty extensively. I have two schools at present in connexion with my own congregation ; and I had as many as four, in addition to the parish school, in the parish in which I was minister.

In short, you have had extensive opportunities of observing the state of education in Scotland, and its deficiencies ?—Yes, pretty extensive. I have travelled

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over Scotland very extensively; and I have otherwise had considerable opportunities of knowing.

What is your opinion as to the deficiencies of and the objections to the present denominational system of education?—I should first like to refer to the First Book of Discipline, as showing what I believe to be the real origin of our system of education in Scotland. The passages to which I refer are chap. 7, sec. 1, and chap. 8; and what I wish more particularly to state is, that from these extracts I think the following deductions may fairly be made:—(1.) That the Scottish system of education originated entirely with John Knox and our other Reformers, even as it has since been mainly promoted by the Presbyterian clergy of Scotland. (2.) That their object was to secure a high secular education, but at the same time, one entirely pervaded by Christian principle. (3.) That a succession of schools was contemplated, open to all, and by which any youth of ability might ascend through the gradation of schools to the highest place at the University, and in the Church and commonwealth. (4.) That all these schools were to be upheld more or less by means of the then ample property of the Church. (5.) That whilst education was thus to be placed within the reach of all, stringent means were to be adopted to induce the entire population to take advantage of the provision thus made. Now, my opinion is, that that scheme was never thoroughly carried into effect in Scotland, and that at present it is more defective than ever. In the first place, the idea of a school for every parish would have been a perfectly good idea, provided parishes had been subdivided in proportion to the increase of population; but, inasmuch as the subdivision of parishes has never gone on at the same rate with the increase of the population, the idea of one school in a parish is essentially defective. In the second place, the system was never extended to towns. There never seems to have been an attempt till recently, in connexion with the system of grants, to extend education through the different towns of Scotland. Then the actual evil that exists in connexion with these organic defects, I think, is one that inheres in the very idea of denominational grants. I think it is a very wasteful system, as far as the Government money is concerned, because it upholds sometimes two or three schools where, if a general system were introduced, one school would be quite sufficient; and, in the second place, I think it tends to increase the divisions which already exist in the country, by training the children from their very youth in a distinctive way, instead of training them together, as was evidently the first idea of the Scottish educational system; and, lastly, it leaves the worst parts of the towns, and even of the country districts of Scotland, entirely neglected; because, by giving grants in proportion to the money raised in particular localities, the natural result is that those who can raise most get most, and that those who can raise nothing or little, get nothing or little. From all that, I have no doubt that there is an immense destitution of education in Scotland, even beyond what many who have not been brought into close contact with the people would imagine.

Do you think that there is a very great deficiency of education at present in Scotland?—I do.

You have spoken of the excess of effort in certain localities induced by the denominational system: are you yourself aware of many parishes in which the rivalry of sects has led to a needless multiplication of schools?—I am not sure that I could state many individual instances; but my general impression, from travelling over Scotland, as well as examining the state of things in towns, is that there might be a considerable saving in the number of fabrics, and the amount of educational machinery, under a better system.

You think it is a tendency of the system to produce that result?—Yes.

But you cannot say you know many cases in which there is a needless multiplication of schools?—I have not examined with a view to ascertain individual cases, therefore I only give my general impression.

You implied that you thought it led to a separate system of education, having a sectarian tendency?—I think so.

Is it not a fact that all the denominational schools are open to the children of all other denominations, and that they are, practically, attended by all denominations?—Certainly; but I think the very fact of having the different children taught in separate schools, even where no attempt is made to instil into them the peculiar tenets of the particular bodies, has the effect which I indicate on the minds of the children.

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With reference to the other evil you alluded to, attending the denominational system, viz., a deficiency in the number of schools, and an unequal distribution of them, have you observed many cases in Scotland where there are large districts of the country unprovided for?—I find from my own experience that there is a very great amount of general destitution; for example, I very often find persons who cannot subscribe their names when I marry them. And when I had a district church in Paisley, I found it necessary to have the line read out when the people were singing, because they could not read it themselves. Then I find that, even where education may be said to exist to some extent, it is of a very defective kind; that is to say, persons cannot read easily or pleasantly, and the result is that they very soon leave it off; in short, I am thoroughly convinced that great evil exists. Some time ago, I wrote a little pamphlet on education, in which I made some calculations, and it occurred to me that, in educating three millions of people, if one-fifth of the population should be at school, there ought to be 600,000 children at school; I could not ascertain, by all the statistics that I could gather, that more than one half of that number were at school. Then, again, that number of 600,000 children would require 6000 schools, with 100 children in each. It is not possible to make such a high average as that in many of the thinly-peopled districts of Scotland; it would require a lower average of say 75 to each school; and therefore you would require from 6000 to 9000 schools in the country to give a proper amount of education. So far as I can discover, we have nothing like that number at present in Scotland. From all these things put together, I gather a very strong inference, though I should like very much that the Commissioners should test it by actual experiment in some way or other, that we have greatly fallen from the sort of educational pre-eminence that we were supposed to occupy at one time.

What is your present charge?—It is in the south side of Edinburgh.

Have you found a very considerable percentage of people there who cannot sign their names?—I have lately found a good many, who came to me to be married, not able to write; and I constantly see on the streets during the day a great number of children who ought to be at school. When I came there, so far as I remember, there was only one school in the district. I have now two schools, one with 300 children, and another with 80 children; others also have schools; but still I am certain that there is a great deficiency.

Then it is your opinion that the denominational system is not overtaking the mass of the people, especially in large towns?—I hold that opinion very strongly.

What remedy do you propose?—I propose the adaptation of the old Scotch parochial school system, if it were possible. I believe there is no way by which the whole population can be educated but by some such process as that.

What is the adaptation which you think necessary to present circumstances,—what is the general outline of any plan that you would propose?—The first thing necessary, in my opinion, would be an alteration in the electoral body. I believe the electoral body, as at present constituted, is much too limited to secure the general confidence of the people.

Do you think that the present electoral body is a good basis for the enlargement of the system?—It is a good basis, in the same sense in which the old system of election was a good basis for the Reform Bill. I would not exclude any of those who at present elect the teachers, with one exception, which I shall immediately explain. I should myself prefer some such plan as the plan for managing the poor, and I think some adaptation of that machinery might come very near to meet the necessities of the case.

But a mere alteration of the constitution of the present parish schools would not add to the number of schools, and would not overtake the population?—Clearly not; but if the schools were so altered as to command the general approbation of the entire population, I think the extension of the system would be a very simple thing. Every one would then assent readily to have it extended.

What is the constitution of the body which you would entrust with the management of each parish?—The constitution of the board for managing the poor is this: every heritor who has £20 and upwards of annual income is a voter in his own right, and the rest of the persons assessed elect a certain number to represent them; over and above that, the parish minister sits as a matter of right, and a certain number of his elders,—a remarkable peculiarity being that the minister is not himself assessed. Now I think it is unreasonable that he should be a

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member of the board at all without paying his fair share of assessment; but in reference to the adaptation of the system to this peculiar object, I think it would be necessary, if he is to remain as a matter of right, that other ministers should sit also as matter of right.

Do you mean that the Act of Parliament should make other ministers *ex officio* members of the Board?—Either that, or exclude them all.

Do you mean to exclude them all, or would you leave all simply eligible?—I mean that if any are to sit as a matter of right, all Presbyterian ministers should do so. I am not sure that I would extend it farther; and I think there are very good reasons why the right should not be extended farther.

What is the provision which you would recommend in an Act of Parliament?—I must admit that my own view has varied to some extent; that is to say, I for one have very great confidence in the general body of the Scotch people, and was at one time of opinion, that if a proper electoral system were adopted, it would not be necessary to have any persons there as a matter of right at all. But I find that practically there are great objections to that system; and I believe that the introduction of a national system of education into Scotland has been retarded to a considerable extent by the attempt to make the change more sweeping than is absolutely necessary; and probably the simplest plan would be to allow the Presbyterian ministers to have each a place in the board of management of the school.

Do you think that that is the simplest plan as regards the provisions of an Act of Parliament?—The advantage of it, I think, would be, that it would tend to combine all the parties whom it is most desirable to consult; that is to say, the mass of those who are practically taking a part in the management of education; and, moreover, it would be more in accordance with the original theory of the system, which was certainly a Presbyterian system of education.

Who are the ministers that you would specify in an Act of Parliament?—I think there are three classes of ministers in Scotland that certainly represent an overwhelming majority of the population, I mean the ministers of the Established Church, Free Church, and United Presbyterian Church. I think they occupy a position different from all other ministers, and may, in a sense, be said to represent the Presbyterianism or great bulk of the country.

Putting aside the question of the Parliamentary possibility of such an enactment, I should be glad to know whether you insist upon such a provision,—I mean, whether you consider it as essential to your confidence in any new system of education in Scotland?—I would not like to say that it was essential, because I can imagine various ways of solving the problem. For example, some persons would prefer a legislative enactment in regard to the introduction of the Bible and Shorter Catechism, and would be thoroughly satisfied with that; others would be satisfied with certain provisions in regard to the licensing of teachers, and their expulsion, if they were found introducing infidel opinions, or in any way transgressing the general object for which the scheme was introduced. I don't mean to say that I would be very strongly in favour of any particular plan; the great matter is to get the people educated, but if any minister is to sit as matter of right, I think others should do so also.

Would you be satisfied yourself in regard to the religious instruction of the children, and in general in respect to the management of the school, if all these matters were left entirely to the local boards, without any statutory provision on the subject at all?—I have said already that at one time I would have been satisfied with that; but I am not sure that you are likely to carry a measure of that sort.

But would you be satisfied with it?—Personally, I would have great confidence in the people of Scotland, that the result would be very much the same, provided you allowed a sufficient amount of popular influence, under almost any system. That is my general impression.

You think that a sufficient amount of popular influence would be admitted by basing the representation on the same system as the representation of the Parochial Board?—I would be quite prepared to have even a wider representation. The only reason why I fixed on that is, that it is an existing machinery. I think it would save a great deal of trouble not to have separate elections in rural districts for two things, but that the one electoral body should manage the whole thing together. But my own preference at present would be for leaving the mat-

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ter alone, so far as the minister is concerned, only adding others. That is my general feeling as to the probability of carrying a measure, and as to its working smoothly.

Would you be satisfied to leave the parish minister as he is, making the others simply eligible by the ratepayers?—No; my objection to that is this, that I believe it would lead to very awkward scrambles in districts. I have no doubt that many of the other ministers would be elected, but they would be made to run such a gauntlet that a great many of them would decline even to become candidates.

Do I understand you to say that you would not be satisfied with any system of national education which did not either expel the present minister from the board, or admit all others by Act of Parliament?—That is my feeling decidedly.

Limiting it to the other two denominations of the Free Church and United Presbyterian Church?—I would have no objection to admit any Presbyterian minister, but I think that these three stand prominently out.

Would you not, in parishes which may be called Roman Catholic, of which there are some, a few in the Highlands, allow the Roman Catholic priest to be a member of the Board?—As a matter of right?

Yes.—Certainly not.

Would you allow him to be eligible?—I certainly would allow him to be eligible, as he is now to the Poor-Law Board.

You would require no statutory provision as to religious education,—you would leave it to the management of the board?—Yes, if there was a proper management. The present system has no direct statutory provision.

What powers would you give to the new board, in respect of the raising of funds, either for the increased endowment of existing schools, or for the founding and endowment of new schools where necessary?—I would be disposed to give them very extensive power, within certain limits.

Would you give them the power of assessing the heritors, the heritors being in a minority in the board?—The present Poor-Law Board assesses the heritors, and they are not found to be much in a minority. Their influence is found to be very strong.

Would you give them the power of adding a personal rate, besides the rate on property?—No, I think a personal rate would be a very awkward thing.

You would give them the power of rating all kinds of property in the parish, and nothing else?—Yes.

And you think that system would be competent to deal with the destitution that now exists in Scotland?—If that won't deal with it, I don't know what will. My own impression is, that we are at present getting into a taxation that is far more formidable than any such taxation as that would be. For example, I have been looking at the expense of the management of the poor in Scotland for the last twenty-eight years, and I find that in 1836 it was £171,042; in 1846, £435,367; in 1856, £699,852; and in 1861-2, £761,934; that is to say, it has been steadily increasing; and that is only one of many other forms of taxation in which the country has been involved. The expense for lunatic paupers, I presume, is nearly £100,000.

What is the connexion which you mean to establish between these figures and the subject of education?—That the want of education is one pre-eminent cause of all that increasing taxation. My impression is, that the country must either be taxed to keep the people right, or taxed afterwards in the vain hope of making them right; and my own impression is that the taxation of the country of late years has been all running in the wrong direction. It has been running in the direction of providing for the lapsed classes of the population, in the direction of providing houses for paupers, immense machinery for criminals, and so forth; and I believe that if the matter were properly understood by the people and the landlords, they would greatly prefer an educational rate to those other rates, because the educational rate might have some tendency to arrest the progress of those other evils in the first instance, but if it will not do it, there is no other remedial measure I know within reach of Parliament now, except in connexion with the houses of the people.

You mean that the want of education is the great source of the increase of pauperism?—I have not the least doubt of it. One great cause of pauperism is drunkenness, and I have no doubt that a great many people are drunkards because they have no higher enjoyment in life. They cannot read, and have not the enjoy-

ments of home; they have nothing but sensual enjoyments, to which they betake themselves; and thus drunkenness comes to be the parent of pauperism to an unknown extent. Then, again, the want of education on the part of females; the want of capacity to make the homes of men comfortable; the want of knowledge of cookery, etc., drives men out of their houses and into the public-house. In all these ways I believe the want of education has a great tendency to increase the rates both for pauperism, for lunacy, and for crime. Rev. Dr. Begg.

If a national system such as you have sketched were adopted, I suppose you would consider it a consequence that the Free Church would give up their existing schools?—Clearly, on fair terms. I think that one great hindrance to the last bill consisted in the wholesale way in which the bill proposed to sweep away our schools, without consulting the local parties to whom they belonged. I have not the slightest doubt that if a national system of education were introduced, of a satisfactory kind, we would still hold ourselves entitled to put down a school where we thought there was a deficiency,—and no Church would abandon its right to do that; but I have no doubt our system would mainly merge into the national system.

Do you mean to insist on any particular scale of terms by Act of Parliament, or would you leave it entirely to local action?—Entirely to local action. My objection was to introducing it into an Act of Parliament in the way it was done in the last bill. But I have not the slightest doubt that on fair and equitable terms all these schools could generally be acquired.

Supposing we don't succeed in introducing any national system into Scotland, and supposing the denominational system to be continued, what opinion have you in respect to the merits of the Old, as compared with the New Code?—I have not formed a very decided opinion. I have not examined the New Code so as to be able to give a very intelligent opinion about it. The general idea on which it proceeds, viz., payment for actual results, I think is a very good theory; but how far the Revised Code would affect the question of education in Scotland, I am not prepared to say beyond this: that my general impression is that it would tend to lower the tone of education in Scotland, and to prevent the cultivation of the higher branches, for which no Government provision is made.

But you have not attended specially to the bearing of the Code?—No, I have not.

Mr. Dunlop.—You referred to the original formation of our parochial system: was it not part of John Knox's plan to have had it all supported out of the property of the disestablished Romish Church?—Not all; there are distinctions made in regard to those that are poor. I don't think it was intended to be wholly supported from that source; but I think the property of the disestablished Church was intended to go toward the upholding of that system as far as necessary.

But that failed, and it was established for a century by voluntary contribution?—Yes.

The present system of management—the heritors had no existence then?—I believe not.

You propose to make a managing board similar to the Poor's Board: how far do you wish the resemblance to go? At present the Parochial Board is composed of heritors; and every man is held to be a heritor who has £20 sterling of yearly rent; and, however many heritors there may be, even though there were 2000 or 3000, there are not more than thirty elected managers by all the rest of the population: was it something of that kind that you contemplated?—I believe the case of 2000 or 3000 heritors would be a very rare case; and even then the result would be satisfactory, as a general result.

Then you would be content to take the £20 heritors, supplied by a small number of parties elected?—It might be necessary to have more.

You would not proceed on the foundation of the present qualified heritors, supplemented by an election by all other parties?—I am not prepared to say that I would not. My own idea, however, is that it is well always to simplify machinery; it is not a good thing to have a great many machines working in the same parish, and whatever is necessary for the improvement of this projected board, may very likely be necessary to make the existing Parochial Board more effective. At all events, I would prefer to strike the average between any projected improvement, and attempt, if possible, to make the one machine accomplish the two-fold object.

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Don't you think there would be an advantage in their being different in this respect, that many people who would not have anything to do with poor's rates and municipal corporations, would take a great and earnest interest in the management of schools?—In reference to towns, I agree entirely with that view. In towns where the magistrates, for example, are likely to come in room of the heritors, it might be well to have a separate class of men elected, just as a separate class is elected for the Paving Board, but the general rule would still hold.

Does not the same thing take place in large villages, where there is a class of quiet people who are willing to take a share in the management of schools, but who would not have anything to do with the Parochial Board?—I think in country places the same class of men would be willing to give effective help. In country places it is generally much the same class of public-spirited men who would be ready to accomplish both objects.

You said you would not allow this Board to lay on a personal tax: do you mean that you would not allow them to lay on a tax on occupants of land or property, or that you would not allow them to do so upon personal means and substance?—I understood the question to have reference to means and substance.

Then you see no objection to their laying on a rate, one-half of which comes from the occupants?—None at all; but I refer to a very obnoxious system which prevailed in Paisley, when I was there, of taking the measure of a man, and dipping into his pockets, so far as you thought was expedient. There is one thing I would take the liberty of mentioning, viz., that I think some provision would almost be necessary in the way of making people take advantage of schools; and a fact was stated to me the other day, which seems to show that that might be done more easily than one at first sight might suppose. It is with reference to Kilbirnie, in Ayrshire. A friend of mine, who was there the other day, writes me as follows:—"At Kilbirnie, in Ayrshire, I heard of a case, both from neutral parties and from the proprietors of the mills themselves, the Messrs. Knox. At one time, education was there at the very lowest ebb. There were plenty of schools, but they were deserted. Consequently crime and all the other results of ignorance abounded. These gentlemen gave their own time, by the establishment and conduct of evening classes, to make the young people at their works acquainted with the rudiments of knowledge. But their efforts proved fruitless. Although this was their sole object, their efforts were denounced, and these evening classes had to be abandoned for want of attendance. What was to be done? Cases of crime were not unusual even in connexion with their own works, and otherwise matters were in a most unsatisfactory state. Two courses were open to them. Either they must employ children, and according to the statutory provision, cause them to attend school for half the day; or they could lay down a rule for themselves, not to employ any who were under age, and to refuse to employ any unless they were possessed of the rudiments of learning. This last course, after serious consideration, the Messrs. Knox adopted, and the change was soon apparent. At first, they had some difficulty in carrying on their mills, but they persevered. Every applicant for work was referred to the doctor, who not only examined them as to their physical capacity, but also tested their ability to read and write. If unable, at least to read, the applicant was refused. It soon became widely known that this knowledge was essential to employment. Soon the schools were crowded, and there has been a steady supply of the best workers, while contentment and good order generally prevail. The best teachers are in highest repute, and few refuse in these schools to read the Bible. Why not extend this beneficial regulation to the entire country?"

You think there would be great advantage in extending an educational test of that kind to all sorts of labour, including rural labour?—I see no objection to that at all. I think it would be of immense advantage.

You think it would be more effective than requiring a certificate of attendance at school so many hours a day during the time of the employment?—I think so, and far less obnoxious than any other form in which compulsion could be used. It is quite plain that John Knox contemplated some sort of *compulsitor*, though with him, of course, it was simply the censure of the Kirk, which is out of the question now; but it seems to me that some provision of this kind, that persons should not employ children till they can read and write, would have the desired effect.

Are you aware that the feelings of the labouring classes themselves are becom-

ing more reconciled to such a test?—My impression is that the more intelligent of the working people would rather like it. It might give rise to a little misapprehension at first; but the fruits of ignorance are so dreadful, and the country requires to defend itself so against the incursions of ignorance, that I think such a provision as that could be carried triumphantly; and it would meet the main difficulty that many people have, when they say, that suppose schools were built, the result would not be gained, because the children would not attend. Rev. Dr. Begg.

Mr. Ramsay.—I understood you to say that if the board under a national system were sufficiently popular, you would leave the management of the schools very much to that local board, without other control?—Well, I was of that opinion. I have still the same confidence in the people of Scotland; but I am not so sure as I was at one time that a plan of that sort could either be carried, or would work so well as I imagined that it would. I believe questions would arise which very likely might lead to a good deal of difficulty; but I have the same general confidence in the result; and I have a very strong conviction that the individual preferences of people should give way to the accomplishment of such a vast national object as the adaptation of the parochial school system to the present altered circumstances of the country.

Would it not satisfy you, supposing there were to be a national system, if the minister of the Established Church were excluded, and be like the other ministers in the district, eligible to be elected by the ratepayers?—My impression is that you will not succeed in excluding him.

But will you be satisfied with that, supposing the Legislature passed a law doing so?—That would depend somewhat on the other provisions of the measure. Of course the exclusion of all ministers would weaken very materially the security that people suppose they have for the religious upbringing of the children, and it would be a strong measure, in reference to the national system as at present constituted.

Do you think there is any variation in the system of the instruction pursued in the different classes of schools throughout the country?—I am not aware that there is; and that was the ground of my own confidence, that even in the schools erected and conducted by the people themselves, the same kind of education exists as in the parish schools.

What has led to your change of opinion?—I have waited now for twenty years, always struggling in a small way for a national system, and I have found that our object has been defeated at all hands; and my impression is that it has been defeated mainly, because we seemed to have been aiming at what was repulsive to a large number of people, and especially to those in possession, which is always a matter of some consequence.

Mr. Davidson.—Did I understand you to say that you thought the present deficiency of education was owing to a want of confidence in the electoral body at present existing?—No; I did not say that. At present the various denominations supply themselves with schools. You have not the parochial school system made co-extensive with the population, as I think; and you will not be able to make it co-extensive with the population until the people have confidence in the electoral system.

You would prefer a system which admitted the clergymen of the Established Church, Free Church, and United Presbyterian Church, as of right; and I think you said you could give good reasons why no other clergymen should be admitted: I should like to hear those reasons?—My first reason is that the system of education has been essentially Presbyterian from the beginning; it was framed by Presbyterians, it has been worked by Presbyterians, and it is in its own nature essentially a Presbyterian system. Another reason is, that I think these bodies occupy a position so paramount in reference to the number of their adherents, that other bodies have not the same claim on numerical grounds, as well as on general grounds of policy. My third reason is, that I believe if you attempt to introduce persons who, from their very principles, object to the very kind of education conducted in these schools, you would lead to conflict and collision; and instead of introducing a harmonious national system of education, you would just splinter off into the old denominational system very speedily.

In regard to the second of these reasons, take the case of a large portion of the country, or of a single parish, where a large proportion, say one-half, or perhaps the majority of the people, are Episcopalians: how would you provide for that case?

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—I would not by legislation attempt to provide for exceptional cases. You must legislate on general principles, and leave exceptional cases to be arranged on other grounds.

You stated that you would not object, if the Act of Parliament introducing a new system, did not provide that the Bible and Shorter Catechism should be taught in the schools?—Yes; that is my view.

Take one of the parishes where a large majority of the people are Episcopalian, are you prepared to meet the consequences in such a parish?—I would certainly leave it to its natural course. We have never had any legislative provision, so far as I know, for the particular branches to be taught in schools. It has been always left to the local managers, though these have been a small number, and it has not led to any serious consequences as yet.

And you have no objection that in that parish, largely Episcopalian, the managing body should provide for the teaching of Episcopalianism in the school?—When that case occurs I think it will be time to provide for it; and it was on the ground of the possibility of some such result emerging, that I said I thought all bodies should hold themselves entitled to plant additional schools. And I would say that I don't see anything at present, except, perhaps, the superintendence of the Presbytery, to prevent that result.

Supposing the Act of Parliament were to specify that the Bible was to be read, without saying anything about the Shorter Catechism, would you be satisfied with that?—The provision for the teaching of religion by Act of Parliament I don't put much value upon; and inasmuch as it would be offensive to certain classes of the population, I think it ought not to be insisted on; but if anything is to be said about it at all, if you are to rely on a mere Act of Parliament for religious instruction, I think it should include all the religious instruction which you intend to give; otherwise it would be inferred that nothing more was to be expected in the school than the Act specified.

So that you would put in the Shorter Catechism as well as the Bible?—If you legislated on the subject at all in that form; but I don't insist that you should legislate in that form, though I have no conscientious objection on that subject, which some people have. But still I would defer to the conscientious objection of others, provided I could accomplish my main object in any other way.

In that case, would you object to a clause which would relieve all who objected from attendance at the religious education in the school?—Clearly. We have always held it in Scotland to be a fixed principle that no child should be compelled to attend any religious instruction, or any instruction to which the parents objected. I would hold that to be a most essential principle in any system.

Mr. Cook.—You approve of the school system as sketched in the First Book of Discipline?—Yes, I do. I think we have never had anything better or so good.

You say it is a Presbyterian system?—It was of Presbyterian origin. I am not aware that in any other Church such a scheme has been devised; but I hold that John Knox, who wrote the First Book of Discipline, and his coadjutors, who proposed the scheme, were the founders of the Presbyterian Church in Scotland.

Do you think it was a national system?—I think it was a national system at which they aimed.

Do you think it was sufficiently broad in its religious views to constitute a national system?—I do.

I think you stated that it was to be supported mainly, if not altogether, out of the patrimony of the Church?—Yes.

Was it not also to be under the management and control of the Church?—I have no doubt that John Knox aimed at that.

And the Church he aimed at establishing was a Church in connexion with the State,—an Established Church?—But it is quite certain that Knox did not succeed in getting schools in connexion with an Established Church till long after that.

That is what he contemplated?—It is what we contemplate also. The Free Church are in favour, in the abstract, of an Established Church; but Knox had to fight for several years after that before he got the Church endowed. Therefore the scheme was devised by men not connected with the Established Church at the time, and who might never have been connected with it.

Do you think there was any alteration in Knox's views after he got the Church established?—I don't believe it. I am not aware that I have changed my views, though I have changed my position.

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Do you find in Knox's scheme any trace of a purpose to make the Dissenting clergy of those days *ex officio* members or governors of the schools?—I am not aware that there were any Dissenting clergy at that time—Protestants.

You think they were all adherents of the same Presbyterian system?—All, so far as I know.

Under what authority is a Free Church minister now planted in a parish?—By authority of the General Assembly.

And he may be withdrawn by the same authority?—Yes.

Is that so also with the United Presbyterians?—It is, but not in precisely the same degree. I understand that their Presbyteries exercise a power in the way of planting churches which we do not allow our Presbyteries to exercise. We make our Presbyteries merely ministerial in the planting of churches, and all cases must be sanctioned by the General Assembly. No doubt that may be partly owing to the general fund out of which our ministers are supported, which makes it necessary for us to take care that they are not unduly multiplied. But in either case, the planting of ministers is by ecclesiastical authority.

The public law of the country has nothing to do with the matter?—Nothing, except the law of toleration; we claim to act independently of the law of the country in such matters.

Lord Jerviswoode.—I understand you to be in favour of a more extended system of compulsory education for the young, particularly in manufacturing and populous districts, than exists at present under the Factory Act: take one of the populous parishes of Glasgow, for instance, under that system, if it were sanctioned, there would, of course, be a considerable increase in the number of pupils who would in consequence attend school?—Yes.

It is part of your proposed system, I think, that the ratepayers should be the governing body, as regards fixing the amount of provision for the schools?—Yes, so far as I can see, that is the most likely way of accomplishing it.

Suppose the ratepayers in such a parish as I point at were to decline to raise the rate necessary for the education of the children within the parish, would you leave that case without remedy?—Certainly not. I think whatever enactment is introduced ought clearly to define and specify the purpose for which these local boards are established; and for my part, I would not object to some general board, in the first instance, to see that all that was done, just as you have in the case of the poor, and other similar matters.

With a controlling power?—I think it ought to be only controlling till the scheme was fairly in operation; and perhaps there might be some appeal in such an event as you suppose. But if what I was saying a little ago were done, I think the object would be gained effectually, because, on examining children before they are set to work, to see whether they could read and write, the question would not be at what school they had been taught, but the question would be, whether they had the necessary knowledge; and if that were made an essential pre-requisite to their obtaining work, I have no doubt you would soon see zeal in every direction for the machinery necessary for completing that education.

The Lord Advocate.—You would look on a complete scheme of the nature you have sketched, as being an important lever against the ignorance and crime of the country?—Decidedly.

Do you conceive the denominational system can ever be made to accomplish that object?—I don't think it. Of course, I don't mean so to disparage the denominational system as to allege that it has done no good. I believe it has done a great deal of good in the way of elevating education in Scotland; but I mean that to the extent of getting the whole country educated, the object never can be accomplished by any denominational scheme.

Of all the schemes for the elevation of the lower classes, do you consider that of a thorough national education to be the best and the most effectual?—Clearly. I look at it in that light: if you are to fill the whole town with light, you put a lamp at certain intervals all over the town; if you are to send letters over a town, you have letter-carriers for every district; if a whole town is to be watched, you put policemen on every beat. None of these objects could be accomplished by a miscellaneous system. And so, if you wish the whole community to be educated, that can only be accomplished by some systematic provision for placing education within the reach of all.

I presume your opinion is that there is a great want of education at present?

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—I strongly think so; and in particular, I think you have not the people educated in the way in which they might be educated by means of a national system. In the first place, the education is neither so general, nor of the quality, nor so adapted for the purpose of elevating the population, as it might easily be made by a proper national system.

Compared to that object, do you think that the mere machinery by which it is to be managed is a matter of very great importance?—My feeling is that it is not a matter of comparison. I think the adaptation of the machinery to the accomplishment of the object is essential to the reasonable expectation of so accomplishing it.

To illustrate what I mean, supposing you had a moderate infusion of the popular element in the existing parish schools, would you be inclined absolutely to insist on the exclusion of the parish minister, or the including of ministers of other denominations in the managing body?—My own impression is, that if you are to have an unsectarian scheme, it will not do to have the parish minister occupying an exclusive position. I think ever since we got the recent Act, which declared that all men were eligible as teachers, the idea of making a national system upon the basis of allowing the parish minister to hold an exclusive position, is out of the question.

I understand that in Sutherland, Caithness, and the northern counties, there are a good many parishes where the children, for the most part, attend the Free Church school; there are two schools therefore in the parish, while apparently only one is required: how would you deal with such a case if you were to have a Government measure?—My impression is that a board, constructed in the way I have indicated, would set that all right very soon.

As to the compulsory test, do you think much weight is attributable to the objection that the parents are prevented from getting the benefit of the children's labour when they are able to earn something?—I would not put any value upon that, because I hold that, inasmuch as the neglect of parents to educate their children involves the country in serious expense afterwards, the country is entitled and bound to look to itself, by seeing that education is given.

Lord Ardmillan.—I understand you to be clearly of opinion that no system of national education would be satisfactory in which, practically, religious instruction was not given?—Certainly.

Are you also satisfied that the people of Scotland generally, would desire and demand that such religious instruction shall be given in the schools?—I have not the slightest doubt of it.

Speaking as a Free Churchman only, I presume your body would have no objection that the law should prescribe that some Presbyterian instruction shall be given in the schools?—I don't think we would have any desire that the distinctive peculiarities of Presbyterianism should be introduced into the schools, because hitherto no such thing has been done. I think we would insist on having the Bible read, and the Catechism taught.

But the Catechism is a Presbyterian Catechism?—But the distinctive principles of Presbyterians are not hinted at in the Catechism; and it is possible for persons to commit it to memory without knowing that there is any form of government in the Church at all.

My question was not intended to go beyond the teaching of the Bible and the Shorter Catechism?—In regard to the general matter of teaching religion, I believe it would be very dangerous to give education without religion; my impression is that it would induce a most dangerous state of society very soon indeed.

Is it not the fact, however, that there is a large body of excellent Presbyterian nonconformists who object, on conscientious grounds, to the State giving any direction as to the teaching of religion?—Certainly.

And, therefore, is it not the fact that a national system, to be generally satisfactory, ought, if it can safely do so, to abstain from giving such directions?—I think so. I think there is no necessity for running in the face of any conscientious principle, and that if the object can be gained by mere machinery, as it has hitherto been gained, in point of fact, it would be an unnecessary and offensive thing to do it by Act of Parliament.

And, looking to the practical result, you have no doubt that the end would be accomplished if the local boards were well constituted?—That is quite my view.

Are you also of opinion that it would greatly aid the same result, if you had a good licensing board, so that no choice could easily be made of an incapable or an irreligious teacher?—I think that would be of great advantage. Rev. Dr. Begg.

Is not the personal character of the teacher, after all, the best security for religious instruction in the school?—I believe it is.

Supposing that in any parish there had been for some time an inefficient parish school, and that recently, since the last Act, that was changed by the appointment of a new teacher, and that there was now an efficient parish school, do you not think it would be a right thing that a weak Free Church school in the neighbourhood should be either superseded or removed, in consequence of a change effected on the parish school?—I believe that in point of fact that would be the result; and I believe, though I am not prepared to mention cases, that some such result has occurred already.

You think that a right course to take under such circumstances?—I do.

Mr. Black.—You have stated that the want of education is one great cause of the vice and crime that prevail; now, there is a class of vagrant children, which Dr. Guthrie has called the Arabs of the town: how would you provide education for these children?—My general opinion is that if a proper system were introduced, that class of persons would be gradually diminished. I believe that at present there is a deteriorating process going on in society, connected with a variety of causes, but chiefly, I have no doubt, with the wretched state of education, and want of other moral appliances; but I believe that under a proper system, especially if something effective were done in the way of getting better houses for the people to live in, that class would gradually melt away into the general mass. At the same time, if you point to supporting a certain number of ragged schools, as a temporary expedient for the purpose of meeting a great evil, I don't see that there would be any particular objection to that; but I look on that as an exceptional arrangement altogether, and I would point rather at plans by which to lay the foundation for a better social state of the entire community; and I know very well, from close observation, that many of those that are called Arabs are the children of persons very well to do, persons who have abundance of work, and plenty of money, but who are thorough drunkards, and mis-spend their money.

Are there not a great many of these children who have no parents at all, or who have parents not able or willing to pay any attention to their education?—There are a great many, I believe, whose parents are not willing, and there are some whose parents are not able to give them education. In regard to those who are not able, I think that is a question which concerns more the poor-law system of the country; in regard to those who are not willing, I think the compulsory provision which I suggested would meet their case very speedily.

But the class of children that I allude to are not likely to apply for regular work in factories or in any other way?—I think that if they are children of persons that are not on the poor-roll, who are neglecting to provide for them, they are very likely to apply for employment; and if they are children of parents on the poor-roll, but who ought not to be so, they ought to be made to educate and support their own children.

But, in the meantime, you would have the thing to go on as it is without any provision?—I don't exactly say that. I think any provision that should be made should be of a temporary kind, and should not be woven into a general national system of education. I think if a national system were introduced, it would by and by dispose of a very large amount of that vagrant population; and I have no objection that in the meantime some measure of an interim nature should be adopted, if a wise one can be devised, for the purpose of meeting the evil. But I have always had a great horror of the State taking in hand to do for people or children what they ought to do for themselves. I think the more the State interferes with what is a parental duty, the more it involves itself and the country in mischief, tends to pauperize the spirit of the people, and to drag them down, instead of lifting them up. Therefore I would much rather encounter a temporary evil than plunge into a mischief of such magnitude as I believe that to be.

I am not sure whether you said you would prefer that, in the Statute providing a general system of education, you would have a provision that all Presbyterian ministers in the district should form part of the board, or that there should

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be nothing said at all about them in the Statute?—What I said in general was, that if any minister is to be introduced, the others must be introduced also. I have not such a strong opinion as some people in regard to the necessity of having any ministers introduced, although I believe it would facilitate very much the introduction of a national system, and the smooth working of it, to let them all have their place as matter of right. That would be in accordance with the usage that has hitherto prevailed, and I believe would smooth the way to the introduction of a national system. But the whole length I go is this, that if any one minister is to be introduced as matter of right, it is quite essential that other ministers occupying a similar position, and sometimes, as in the northern counties, occupying the position of being the ministers of nearly the whole people, should be placed on the same footing.

But I think you said that those whom you thought entitled to such a privilege were the ministers of the Established, Free Church, and United Presbyterian Church only?—Personally, I would not object to extend it to Protestant ministers of all kinds, but I think these three classes have a claim and a standing that no other ministers in the country have.

You would not admit Independents, for example?—Personally I would have no objections whatever to the Independents; but I think it is more in accordance with the theory of the parochial school system of Scotland that it should be kept as a Presbyterian system.

You said that when any Church thought proper to establish a school where their own peculiar views were to be taught, they should have that in their power: of course, I suppose you exclude these from the national system altogether, and would hold them to be voluntary and separate schools?—Clearly.

Mr. Mure.—As to the religious teaching in schools to be established under a national system, do I understand you to say that you yourself, and the body to which you belong, would not, on principle, object to a provision to the effect that the Bible and Shorter Catechism should be taught in the school?—I have no objection; and, so far as I understand, the Free Church would not object on the ground of principle to any such provision; but there are other elements which enter into that question.

You mean the objection which others may have to such a provision?—Yes. For example, it is perfectly well known that a large number of persons in the country have an objection to the introduction into an Act of Parliament of such a provision as that; besides, it is a novelty in our educational system, and if the object has been hitherto accomplished, and can be accomplished without giving unnecessary offence, I think that is a great matter.

Don't you think that there is a very considerable number of people, and a very large body of clergymen in the country who might object to any national system which did not contain such a provision?—I believe there are a good many, though I cannot tell to what extent; but I think those who are satisfied with the present system ought not to object.

For what reason?—Because there is no provision in any Act of Parliament, so far as I know, that any particular books shall be read in the schools.

Does not the declaration in the Act of 1861 bind the schoolmaster to conform to the teaching of the Bible and the Shorter Catechism?—I understood that that was merely to the effect that he should teach nothing inconsistent with the Bible and Shorter Catechism. I thought that it was simply a negative.

It is as positive as anything can be—"and that I will faithfully conform thereto in my teaching of the said school?"—I have only to repeat that I have no personal objection to such a provision, although I think it unnecessary.

Would it not be more in conformity with John Knox's views, that the Act of Parliament should say something about the Bible and Catechism being taught?—It is quite evident that John Knox aimed at a religious education; but I don't know how far, if he were now alive, he would not be satisfied with some provision which would accomplish the same object.

I understood you to say that you looked to the Book of Discipline as the model of what you conceived to be a good national system of education, containing provisions for religious teaching as well as other things?—My answer was more to fix the idea with which the whole system commenced, so as to trace our deviation

from it, and see how far we could virtually accomplish the object aimed at by altered machinery and in altered circumstances. Rev. Dr. Begg.

But John Knox and his coadjutors proposed the heads in his book as matter of legislation?—Yes.

Let me call your attention to this passage:—"That if it be an upland parish, where the people convene to the doctrines but once in the week, then must either the reader or the minister there appointed take care of the children and youth of the parish, to instruct them especially in the Catechisme as we have it now translated in the Book of the Common Order, called the Orders of Geneva." He contemplated, therefore, that the Catechism of Geneva was to be made compulsory in the schools?—I think that had not so much reference to the Catechism to be taught, as that the minister in a small parish, not having much to do, might virtually be schoolmaster at the same time. Your inference is fair enough; but I think the object of that was to make a distinction between the little upland parishes and the larger parishes.

He begins the second head of the book, "*Of necessity*, therefore, we judge that," and then he provides in the passage I have read, that if it is an upland parish, the teacher shall teach the Catechism of Geneva?—I think the object of that was to distinguish between large places and little places, where the reader should be teacher also. I have no doubt that the idea was that they should teach the Catechism. We are all unanimous about that; and I have no doubt the Free Church is of opinion that the children should be taught the Bible and Shorter Catechism. There are no two opinions about that; the question is as to the mode of accomplishing it.

But the mode John Knox pointed out was, that it should be made imperative on the teacher to teach the Catechism?—Very likely; but we have larger experience now; and I believe that the difficulty may be solved in various ways, and the same object accomplished.

You said that you would leave that to the managing board to be elected under the new system: would you have any central superintending board, for reference in matters of difficulty?—I have not looked at that question very minutely. I said before that until the system was in full operation, it might be necessary to have a general board. At the same time, I see very considerable difficulties in framing such a board, as might permanently control and over-ride the local boards of Scotland in the matter of education. I think the matter is one of considerable delicacy, and would require to be very thoroughly weighed; but, till all the machinery was set agoing,—the schools built or provided, and the various arrangements made, I think it might be necessary to have some board in Edinburgh.

The funds by which the schools are to be supported, you said you would raise by a rate on the proprietors and occupiers?—I should like to say in connexion with that, that it has always appeared to me that something might be done in the way of adapting existing funds to the accomplishment of the object. For instance, in Edinburgh, some time ago, there was an adaptation of George Heriot's trust, to the effect of making out-schools, in which I believe 3000 children are now taught. Parliament so far altered the bequest as to make it possible to have these out-schools, and I believe immense benefit has resulted from that arrangement. I don't see why the same principle might not be applied to other immense bequests. I believe an attempt has been made to get the same principle introduced as to the surplus funds of George Watson's Hospital, though hitherto without success. I have no doubt, that if Parliament would face the matter boldly, the application of the principle, not only in regard to Edinburgh, but other towns where there are similar large bequests, might help very much to establish a system of national education, without giving offence to any considerable number of the people.

The Heriot schools arose from a voluntary act on the part of the Town-Council and the managers of Heriot's Hospital, by their applying to Parliament themselves for a Bill to authorize that application of their funds?—I believe so; but Parliament having sanctioned that alteration, might, I think, consider how far the principle should be more extensively applied.

You speak with reference to surplus funds?—Yes; and these funds are always increasing very much. My impression is that the extension of the monastic

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system in hospitals here, to the degree to which it has gone, is absolutely mischievous, and I think Parliament would be warranted in interfering even on that ground; but they would be far more warranted in extending the application of a principle which they have themselves sanctioned.

Apart from that, would you contemplate that any portion of the fund now derived from the Privy Council should be administered as a sum in aid of the local rate?—I think if Parliament could get out of the system of Privy Council grants altogether, and leave England, Scotland, and Ireland to establish their own systems of education, it would be the best result; but if the Privy Council grants are continued, I certainly would not contemplate that Scotland should be deprived of her fair share of them.

You would contemplate that the fair proportion which Scotland now obtains should be vested in some central body, and distributed in aid of the sums to be raised by local rates?—Yes.

Mr. Smith.—You said that you were at one time in a country parish: what parish was that?—Liberton.

You had a parish school there?—Yes, and four additional schools.

Did you find the parish school well managed at that time?—Yes, I think it was very well managed, on the whole. I think it was a very good school.

You propose to create a managing board, consisting not only of the heritors, but of a certain number of the ratepayers: do you contemplate, as part of that board, any representation of the parentage?—I think that would be a fair thing to do, if it could be done. In considering questions of this kind, it is always necessary to have in view what is feasible and practicable; and I think a regulating principle should be not to multiply machinery in parishes, because if you have constant elections and agitations going on mischief results. If one machinery can accomplish the object, the result is generally more satisfactory. But, if you ask me theoretically whether the parents of the children attending school should not be represented, I say, if it is possible, it is very desirable.

Would you give the managing board full power over the teacher, not only as to his election, but his dismissal?—I think the position of the schoolmaster would require to be well defined. I would not give an arbitrary power of dismissal. I think the position of the schoolmaster should be conserved within reasonable limits. There should be some power of getting rid of an inefficient teacher, either by a retiring allowance, or by dismissing him if there is a fault established against him; but I am not sure that I would vest any such summary power in any managing local board.

Then you have not considered what the powers of that board would be with reference to the dismissal of teachers?—Not fully.

Would you give them power over the teaching of the school?—The general arrangements of the school would require to be under them, so far as any individual ought to interfere with the authority of the teacher. The authority of the teacher is of great importance, and, within reasonable limits, ought to be strictly conserved. I think constant meddling with the teacher on the part of any board would be exceedingly mischievous.

Do you think that a schoolmaster in one of our first-class parish schools could be got to act under such a board?—I have not the slightest doubt of it, especially if you made his situation more comfortable than it is.

You proceed on the assumption that there will be no difficulty in getting the schoolmaster so to act?—My impression is, that under a system on which the bulk of the nation could agree, there would be no difficulty in augmenting the salaries of the teachers, and making them every way more comfortable.

As I understand, you propose that the system of rating should be uniform over the whole country?—I don't think that necessary. The rating for the poor is not uniform over the whole country; the parishes are not uniform, and their necessities are not uniform.

Take the case of some of the Highland parishes, where it may be found that three or four new schools would require to be established: how would you provide for that?—The rating there, in the first instance, would be larger; but there are many parishes with a very large annual rental and a very limited population, and the same amount of rate would not be required there.

I did not mean that you would have the same amount of rate in one parish as in another; but the principle of establishing and maintaining schools would be

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by a rate over the whole parish?—Clearly. I may be allowed to say that it has often occurred to me that two objects might be gained in country parishes, by introducing some instruction in the elements of agriculture and gardening into the schools; and if an acre of ground were attached to every school, in which the boys could work in the interval, instead of idling their time, I believe the teacher might increase his emoluments, and promote the social improvement of the district.

Do you propose that the present system of payment by heritors should be done away with, or that they should pay that in addition to the rate?—I am not sufficiently conversant with the ground on which that payment has been made; but if it is simply a payment out of land in the form of tax, I think it should be superseded by the new tax.

I also understood you to mean that whatever sum may be fixed for the schoolmaster's salary, would be raised by a rate, aided by a supplementary fund from Government?—There is a little difficulty there. In administering the Government fund, I think you would require to leave the persons administering it pretty free to act according to their own discretion. I would not be disposed to give simply a rate in aid, in the sense of giving in proportion to the amount raised in the district. It might be found expedient to give the Government grant in something like an arbitrary way almost.

In some places to give more and in some less?—Yes.

Would you still allow aid to be given to voluntary schools, beyond the national system?—That is also a difficult question. My own preference would be for abolishing all grants to voluntary systems, as distinguished from the national system, because otherwise you would just encourage the perpetuation of what we are trying to avoid.

You think any sect which wished to raise schools might do so themselves, but that Government aid should only be given to the national system?—That is my feeling.

Suppose a large public work, established in a parish within two or three years, requiring a school for that part of the population alone, do you think it would be right that the whole parish would be assessed for that particular school?—Generally speaking, where a public work is established for a district, the whole district participates in the advantages of it, and the land in the neighbourhood is increased in value. Of course, you cannot insure that no injustice can be done in any case; but I suspect there is as much to be said on the one side as on the other of the case you put.

Sir J. Fergusson.—May I ask what you meant by saying that, since it was not required that a parish schoolmaster should belong to the Established Church, the presence of the parish minister on the electing board has become out of the question?—I think the theory on which the Act proceeded, in declaring that other persons than those belonging to the Established Church should be eligible as teachers, was the theory that the schools were no longer necessarily connected with that Church, but that they were national schools *bona fide*, and that to retain, therefore, the presence of the Established Church minister exclusively on the board, was to retain what seems to me inconsistent with the the theory of that Act.

You only meant that the Act was inconsistent with itself?—No; it is perfectly consistent with itself. It only dealt with one particular matter; and I think there was great wisdom in dealing with one thing at a time; but in any new legislation which is now introduced, it would be necessary to keep that in view.

In proposing that only the ministers of the three larger Presbyterian bodies shall be members of the board, do you not see a difficulty in justifying that in Parliament, from the fact that there is no such thing now as a religious census?—There may be a good deal said; but I speak of it more as a facility for introducing a general system into Scotland, and also in connexion with the undoubted fact that the whole of our school system has always hitherto been connected with the Presbyterian Church.

Did Nonconformist Churches not object to religious statistics being taken cognizance of in the census?—Yes, some did; a large number objected on the ground that Government had no right to meddle with that matter; but some objected on the ground that no such census would give an accurate result, because people who went to no church would say they belonged to the Established Church.

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The Chairman.—Have you anything further to state to the Commission?—I would only say that I really hope that some good result may come out of this. There is a strong feeling at present that there ought to be every reasonable amount of concession on all sides, in order to secure such an immense boon to the country as a national system of education; and if Parliament does not see its way to introduce such a system, I believe the feeling is that this should be at once proclaimed, so that the people may know what they have to expect; because I have no doubt there are many in Scotland who would then set to work energetically; and many persons of large means would be induced to devote them to the extension of education in the country.

You think that if there was no hope of a national system, the denominational system might be worked with greater effect than it now is?—I have decidedly that feeling.

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The Chairman.—You are aware that at present in the parish schools in Scotland, and, indeed, in the denominational schools, the children of almost all the various Churches are educated in common?—Yes.

And that they are allowed the benefit of the secular instruction given in these schools, without its being insisted on that they should learn the Shorter Catechism, or any other religious formula, if the parents object?—Yes.

Under these circumstances, do you see any necessity for continuing, in respect of the Episcopal body, the denominational system of grants, supposing that in other respects the denominational system were to be given up in Scotland?—I think we have a strong desire to continue as we have been, seeing that the system has worked so exceedingly well. We have 130 schools, and nearly 12,000 children; and the system works particularly well with us, because we find the school a very great assistance in the parochial work; and I don't see how our clergy could do their duty, or carry on their pastoral work so efficiently without the school as with it.

Then you look on the school as an important adjunct to the congregation?—Very important; I don't mean in the least in the way of making proselytes; but I don't see how our clergy could get fairly at the people, excepting through the medium of a denominational school.

Is it an object of your Church to establish a school in connexion with every congregation that you have?—We have nearly so.

That is a principle which you aim at?—Not exactly a principle, but it has been found to work in such a way that it has come about. I may illustrate what I mean by our experience in St. John's Church. It is a church of so peculiar a nature that we could not take in the poor, and after trying unsuccessfully to enlarge it, we established in Earl Grey Street, in Fountainbridge district, a kind of chapel-of-ease, but we found we could not get at the families in the district excepting through the school; we therefore established a school, and in a short time the children attending it formed a link of connexion with the people, and it has worked exceedingly well.

Is the Church of England Catechism taught in the school?—Yes.

Do you allow other children to attend, without being taught the Catechism, if they object?—In point of fact, several Presbyterians do attend, but no objections have been made in any single instance to the use of the Catechism. I may also mention that the members of the Free Church in that neighbourhood also wished to establish a school, and Sir Henry Moncreiff, with the kindness and courtesy for which he is so remarkable, called on me to explain that they did not mean anything like opposition to or rivalry with our school. We thought this would have a considerable effect upon us; but we found it had no impression at all, but that our school has been so full that we have been obliged almost to refuse pupils; and the Free Church school has got on very well.

Then there was room for both?—Yes.

Would it not sufficiently answer the denominational purpose which you have in view, if the efforts of your clergy and congregations were confined to Sunday schools, and the giving of religious instruction?—In theory it would; but I don't think it would do in practice. We have not the machinery for it. These chil-

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dren attend the schools, and hear the Prayer-Book and the Catechism read; so that there is a certain association with the form of worship of the Church.

Then you would not be satisfied, would you, to see the children of your Church educated at the common schools of the country?—I should not have the least objection abstractedly or theoretically; but I don't think it would work, so far as we are concerned. We have no machinery for it.

Might not the machinery which you apply to the teaching of day schools be equally well applied to the teaching of Sunday schools?—All our masters are Episcopalians; and there is a certain amount of religious association carried on through the operations of the school, which we would lose in a general plan.

Would it not be sufficient that the religious instruction should be conveyed in Sunday schools?—I don't think it.

Do you think the denominational system is sufficient to overtake the education of the mass of the population in Scotland?—I am disposed to think it could. I know very few parts of the country where there is an actual want of schools.

You don't mean to negative the assertion that there is a considerable amount of educational destitution in Scotland?—No.

Then I understand you to set a great value on the continuance of the denominational system, so far as the interests of your own Church are concerned?—Yes, very great.

And that you don't on other grounds care for the establishment of a national system?—No, not so far as we are concerned. I may add, that I do not say so from any bigoted or intolerant feeling, but simply because I don't see how our own system could be fairly and honestly worked in any other way. There are individuals in our body—and one very able man particularly—who have a different opinion, and think that a general system would work sufficiently well for us; but I don't think so myself.

Mr. Dunlop.—I understand that you prize the present denominational system, not so much for its educational results, as for its bearing on the pastoral work of your congregations?—Yes.

You see no other machinery by which you could indoctrinate the children with your own peculiar forms of worship?—No.

But is there anything in the religious education usually given in parish schools, involving the reading of the Scriptures and the use of the Westminster Catechism, opposed to the religious teaching which you desire to give to your children?—I don't mean to say that there is. As I observed, all our masters are Episcopalians, trained in our own training institution, or got from a training institution in the North of England, and therefore there is that habit or feeling of association which keeps the young persons up to the mark.

In the use of the English Catechism in your schools, is there any modification of the questions to suit Presbyterian children?—No, we are never asked to do so.

Is the question, "Who gave you that name?" put to Presbyterian children?—I suppose so; but to Presbyterians we always say, "You were presented for baptism by parents or friends, who are supposed to be vouchers or guarantees for you, and we reckon that the same."

Can you give us a note of the progress of your schools?—The number of our schools is 116, and of the teachers, 116; but that does not include female teachers. We have 201 pupil-teachers; and the number of children regularly in attendance is 11,532. I may add, that I have been asked to suggest that the Government inspector of our schools should be examined as a witness.

How many congregations are there belonging to your communion in Scotland?—About 162. The schools which I have mentioned are schools registered in our books, but there are also a good many private schools.

Do they all get Government aid?—All the 116 do.

Have you a general diocesan fund out of which your schools are aided?—We have a fund called the Church Society; and it may be said that of the money expended on the schools, one-third is derived from contributions to that fund, one-third from fees, and one-third from Government. There were only 30 schools when our Government inspector was appointed; there are now 126 schools, with 130 departments, boys and girls. Our Earl Grey Street school is counted as one establishment, though it contains departments for boys and girls.

Suppose a national system were established instead of the denominational sys-

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tem, would you consider it right and necessary that the clergy of your denomination should be *ex officio* members of the local boards, assuming that the management of the schools was committed to local boards?—I do think so.

You don't see any ground for supposing that there would be any want of harmony between your clergy and those of Presbyterian denominations?—No, I should not think so.

Mr. Ramsay.—You have stated that in no case had any difficulty arisen in consequence of Presbyterians refusing to accept the religious instruction given in your schools?—Not in a single instance.

It is, however, your rule that the Catechism of the Church of England shall be taught?—Yes.

And you have had no occasion to provide for exceptional instances?—No.

Is it an instruction to your teachers that that Catechism shall be taught to all the children?—Yes; we start on the footing that it is an Episcopal school; children of other denominations come in, whom we don't necessarily know, and they fall into our system.

Mr. Davidson.—But you do understand that several of those who attend your schools are Presbyterians?—Yes; and I may mention that our teachers at Earl Grey Street, and in Leith, are reckoned good teachers.

Has the effect of your religious teaching been to make the Presbyterian children who attend your schools become Episcopalians?—My own experience, and my own opinion is that it has not. It has had a considerable effect in removing prejudices on the part of the families of the children who attend, but I don't think it makes the children become Episcopalians.

Where Episcopalian children have gone to a parish school, has the effect been to make them Presbyterians?—I think so. I have heard Bishop Low, who died some years ago, talk of our having 1000 or 1200 people, for instance, at Ballahulish, and it is not so now; therefore, from some cause or other, our people have fallen into the mass of the Presbyterian body.

Do you attribute that in some degree to the fact of there being no Episcopalian schools in the district, and the Episcopal children going to the parish schools?—Partly, I would not say entirely.

Can you tell us what the practice is with reference to the attendance of Episcopal children in Aberdeenshire?—We have a good many schools of our own there, but many of the children attend the parish schools; and I believe, when a request is made to that effect, they are not obliged to learn the Shorter Catechism.

Then, even in those places where there are Episcopal schools, do the Episcopal children sometimes go to the parish school?—I should think not. The truth is, that in the fishing villages of Kincardineshire, and in parts of Aberdeenshire, the Episcopalians are what would be called more bigoted, or stronger Episcopalians, than we are in the south.

Supposing, in a national system of education, it were to be provided by Act of Parliament, that the Bible and Shorter Catechism were to be taught in all the schools, would the Episcopalians object to that in regard to the Shorter Catechism?—Many would.

Upon what ground?—Just from their own feeling, or prejudice, as it might be called.

Is it thought that there is anything in the Shorter Catechism which teaches Presbyterianism?—I don't know that in refusing they would reason much about it, but they would have a prejudice against it, and perhaps a good many of the poor would lose education altogether in that way.

Mr. Cook.—Assuming that the present system of grants in aid is to be continued, have you any objection to state to the present constitution of the parish schools?—No; I have no objection whatever.

Assuming the present system of grants in aid to be discontinued, have you considered whether it would be necessary to have an alteration in the constitution of the parish schools?—I cannot say I have particularly considered that. Certainly, in order to suit our purposes we should require something; but I am not prepared to state my ideas on the general system till I know what it is.

Do you think it probable that any alteration which is likely to be carried in Parliament, would be so satisfactory to the Episcopal body as to enable you to dispense with your own schools?—I don't think it.

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Mr. Black.—If the grants in aid were continued to the Episcopal schools, could we not have a general system for all the rest of Scotland?—I have always thought that.

All you would require would be the grants in aid?—Yes.

Mr. Mure.—Supposing Presbyterian children came to an Episcopal school, but their parents objected to their attending the religious instruction, would you receive them for the secular branches of education?—I can only answer for myself, and perhaps for some others. I should say many of us would. If Presbyterians were to make that request in many of our schools, they would be received; but I cannot answer for all.

It would depend on the local management?—Yes.

Mr. Smith.—I suppose you approve of religious teaching combined with secular?—Yes.

You would not approve of separating them?—No.

When was your school in Earl Grey Street established?—About thirteen years ago.

The Chairman.—Did I understand you to say that you thought the establishment of a congregational school was of importance in bringing your clergy into contact with the people?—Yes.

Do you not mean that practically it enables them to get a number of the poor people—the parents of the children—to attend the church, who would not otherwise have attended any church?—I don't think it has been the means of proselytizing.

But don't you think it has been the means of recruiting a congregation, so to speak?—Undoubtedly; and very often the means of forming a congregation. There are a great many persons who, from marriage, or having resided in England, have some tie to the Episcopal Church.

Monday, 28th November 1864.

THE DUKE OF ARGYLL IN THE CHAIR.

REV. DR. CRAIK,—*examined.*

Rev. Dr. Craik.

The Chairman.—Would you state to the Commission what is your present charge, and what your opportunities of observation have been in respect to the state of education in Glasgow, and other parts of Scotland?—I am at present minister of St. George's Church, Glasgow. I was minister of Scone for eleven years before going to Glasgow, and at that time I was fully better acquainted with the state of education in the country than I now am. The Presbyteries were then in the habit of visiting the parish schools regularly, and, of course, I paid special attention to my own school. In Glasgow, the Presbytery examines the schools. My committee does not examine any of the parochial schools; we are entirely occupied with the sessional schools, and one school in Maryhill, which is not strictly parochial, but is maintained in connexion with the church there. Since 1845, I have been convener of the sub-committee for managing the Glasgow Normal School, and I have had a great deal of correspondence with people in different places about schools, and as to the election of teachers. I have certainly paid a good deal of attention to education generally.

Your experience having been so extensive, will you state your impression as to the amount or deficiency of the present system of education in Scotland, as regards its power of overtaking the population?—There is a deficiency undoubtedly; but the deficiency of means is by no means equal to the deficiency of the actual education that exists. In many parishes in the Lowlands of Scotland, the number of schools is sufficient for the population. I am quite aware that in some parts of the Highlands there is a want; and if I were to speak as to Glasgow, I should require to make a somewhat more minute statement.

What is your impression as to the amount of destitution there?—With reference to Glasgow, I can speak with precision only in connexion with my own

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parish of St. George's. My impression is that the deficiency in schools is by no means proportioned to the want of education. Of four sessional schools in St. George's parish, one is rather over-crowded; another is well-filled; a third might accommodate a considerable number beyond the present attendance; and one is not at all well attended. It might accommodate additional pupils to a large extent. The practising schools of the training colleges are very nearly filled. Of other schools in the parish, I find on inquiry that one school, which might accommodate 300, has an attendance of 160; another, able to accommodate 150, has an attendance of 90. There is another school, containing 40 scholars; another school educates about 130, which fills it pretty well. A Roman Catholic school is also, I understand, nearly full. A school in connexion with St. Jude's, of the Church of England, educates about 300; there being 300 on the roll, and an attendance of 220. The school is quite full. A school in connexion with the Free Church has on the roll 385 pupils, with an average attendance of 360. In another, able to accommodate 250, there are 151. In the parish of St. George's, I can state from my own knowledge, and from information on which I can rely, that there is school accommodation for at least 3350, while only about 2600 are occupied. This does not include the Roman Catholic school. I cannot state with accuracy the population of St. George's parish. It is stated in the almanac at 29,640; but this is quite erroneous; that includes the parish of St. Peter's, now disjoined from St. George's, and whose schools I have not mentioned, and part also of the parish of Maryhill. I am not aware that a report on the census of the city of Glasgow and suburbs, for 1861, has been drawn up similar to that prepared by the late Dr. Strang for 1851; but in that report Dr. Strang arrives at the conclusion that there were then of children under ten years of age receiving education, 21,108, and that 13,300 are apparently not at school between the ages of five and ten. From this sum, he says, must be fairly deducted all those who were never at school, say one, two, three, or even four years, during the period of life in question, and the destitution will then be reduced to about 6000 or 7000.

Then your impression is, that as regards your own parish, there is not a great deficiency as to school room?—No.

Do you mean that these schools, if fully attended, would be adequate to educate the whole children of the parish that are of the proper age for education?—That is my impression.

Then you cannot complain in your parish of any neglect, on the part of the parents, to send their children to school?—I most decidedly complain of that.

Is it a parish with a large poor population?—Very considerable. It is a very peculiar parish. The part in the neighbourhood of the church is now largely occupied with warehouses and shops. There are two other divisions of the parish entirely separated from that, one lying between Argyle Street and the Broomielaw, and the other to the north, in the direction of St. George's-in-the-Fields. The part near the church, consisting of Buchanan Street, Queen Street, and Miller Street, is not at all a poor place, and it is scarcely inhabited, except during the day. The other parts of the parish are inhabited, but not in general by rich people. There are a good many people in good circumstances, but the great majority are poor people.

Do you know the total number of children that ought to attend school?—No.

Is it your impression that there is a large number of children in the parish who do not attend any school?—Yes.

Are there any industrial employments in the parish in which very young people are employed and paid wages?—Many of them are employed at a very early age in the foundries; they are employed at eight or nine in sweeping sand from moulds, I believe, or something of that kind.

Do you think that is one of the leading causes which tempts parents not to send their children to school?—I think it is: the desire to earn a little in the shape of wages.

Would you approve of the principle of the Factory Act being extended to all kinds of industrial employment, that is, that no child should be allowed to attend such employments for wages, unless they could produce a certificate of attendance at school?—I have frequently expressed my approval of such a provision.

Do you think it would have the effect of causing children to be sent to school

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who do not now attend it?—It would have some effect, though perhaps it would not do so much as people imagine, because the parents are so poor that, for present gain, they would make almost any sacrifice.

But that would prevent them from making any present gain?—One must take into account, in any such enactment, the miserable poverty of the people, and the possible hardship which would be inflicted on them.

Is it your impression that the present system of education, which is called the denominational system, is inadequate to get at the mass of the population in the great cities?—I don't think that the system itself, so far as it is denominational, is such as to prevent its reaching the mass of the people.

Have you any objection to state to the existing system of education in Scotland, by which I mean the parochial system, supplemented by grants in aid to the various denominations?—After considering the whole circumstances, I think that, on the whole, it is the best that can be adopted. I don't see that we could make any great improvement on it. I would suggest that there might be a system of rewards for children who attend school. I think if something were given to the children, in lieu of what they could make by their work, it might have some effect in inducing them to attend school.

Prizes to the children?—Yes, money prizes.

Do you mean, inducing the children to attend by giving them free education, which is in itself a prize?—They don't consider it a prize.

You would bribe them to attend school?—I would give them a reward.

Do you mean that you would give them a reward for mere attendance, or for proficiency?—Of course for proficiency; but the attempt to gain proficiency would induce attendance.

Is that the only amendment on the present system that you would suggest?—I am not sure how far the system of the Revised Code will work well in many of our schools. I am somewhat afraid of it; I think its uncertainty is such, that there will be difficulty in working it; and I should have preferred, generally speaking, the former system.

But you don't see your way to any extension of the old parochial system, by an assessment on all property for the establishment of schools wherever there is a deficiency?—That is a very large question, but I think it would bring along with it other evils which would not be compensated for by any apparent advantages.

Then you are not an advocate for any change in the existing system generally, or for the extension of the old parochial system under a new bill?—My idea is, that if you are to preserve the religious element in schools, it is not possible to have a national system. I don't say it is impolitic; I hold that it is not possible. You might have a system which comprehended three or four denominations, but that would not be a national system; and I don't see why any denomination, except the Established Church, should have any preference to others in reference to the matter of education, except that each might receive the Government grant.

Then you attach great value to the denominational system as a security for the religious education in schools?—Yes; because the denominational system secures the attendance of clergymen in the schools; and I think that is a matter of very great importance. I thoroughly concur with a remark made by Mr. Cardwell at Oxford on Friday last, that whatever laymen may do with reference to the getting up of schools, it is the superintendence of the clergymen which, in ninety-nine cases out of a hundred, really gives life and vigour and spirit to the school.

Looking to the state of feeling in Scotland, and the traditional habits which the people have acquired with respect to their education, would you not be satisfied to trust the religious education in schools to the management of local bodies?—So far as my experience goes, I would not.

Do you not think that these local bodies would generally include the clergy of the various denominations?—If they met together, I believe the effect would be contention.

You don't think it possible for them to act in harmony in the management of the common schools?—I think they are far more likely to act in harmony when separate, than by attempting to combine them.

Can you give an account of the Glasgow Normal School and Training College,

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and its connexion with the Church of Scotland?—It originated in the efforts of the Glasgow Education Society. The committee of this Society had been appointed in 1826; but almost nothing was done from 1828 till 1834, when measures were adopted for erecting extensive buildings, which were opened in 1837. For this purpose, the sum of about £2400 was raised by subscription. Certain grants had been obtained from Government, but the whole expenses amounted to so large a sum, that, in 1841, the debt of the Glasgow Education Society was reported to amount to £10,677. In these circumstances, the General Education Society memorialised the Committee of Council on Education for further aid, to defray a portion of the debt incurred by the Society. After considerable negotiation and correspondence, it was proposed that £5000 be granted to the Education Committee of the General Assembly of the Church of Scotland, to enable them to found model and normal schools in Glasgow, on certain conditions, of which one was that the Glasgow Education Society convey the site and buildings of the Normal Seminary to the General Assembly; another, that the £5000 be appropriated to defray a portion of the debt incurred by the Glasgow Education Society; and another, that the Committee of the General Assembly become responsible for the remaining debt. These proposals were agreed to by the Committee of the General Assembly, by minute of date 11th February 1842. And the General Assembly, in approving of the recommendation of the Committee, "enjoin the Committee to take immediate and active measures for raising the funds to be advanced on the part of the Church." On the 27th of May 1843, it was reported that the whole sum raised amounted only to £1400, 15s. 4d.; and the Committee of the General Assembly admitted their inability, in the meantime, to meet the requirements of the Committee of Council. In these circumstances, a proposal was made to them by the Glasgow Education Committee to the following effect:—"1. That the Education Committee shall immediately apply to Government to advance the £5000 granted for the Normal School. 2. That this sum, when raised, be applied towards payment of the debt of £10,677, reported by Mr. Gibson to the Council Committee as the amount of the Society's debt. 3. That in payment of the balance of this debt, the Education Committee shall pay to the Glasgow Society—(1.) Whatever sums or subscriptions may have already been received, or which may hereafter be received, and specially destined for the Glasgow School; (2.) One-half of all the other subscriptions received, or to be received, and not specially destined for the Edinburgh School; and (3.) Whatever sums the directors of the Glasgow Normal School, or such of them as may be named an auxiliary committee for raising subscriptions for the General Assembly's Normal Schools, may be enabled to obtain, the same, when not specially destined otherwise, to be applied towards payment of the above debt, till the whole is paid off. 4. That these conditions being agreed to, the Glasgow Society shall convey over to the General Assembly's Committee the site and buildings of their Normal School, free of debt, in terms of the minute of the Privy Council on Education. 5. That the Glasgow Society undertake and become responsible, in the meantime, for whatever portion of the debt may not now be paid off, and take the entire risk of the ultimate payment of the debt (other than the Government £5000), from the subscriptions received, and to be received, under Article 3 hereof, and also to provide for the interest of any balance of debt, until it shall be so paid off,—the General Assembly's Education Committee being no otherwise bound for the debt, than that the subscriptions received, and to be received, in terms of Article 3, shall be appropriated as therein set forth, and that merely to the extent of the amount reported to the Council Committee, viz., £10, 6s.; the debt, until so paid off, being, to all intents and purposes, the debt of the Glasgow society, or rather the individual members thereof. 6. That after the £5000 is received from Government, and applied as before mentioned, and the Glasgow school conveyed to the General Assembly, the Education Committee shall undertake the management of the school, and relieve the Glasgow Society of the same in time coming—applying for its support the Government grant of £500 a year, and the extra sum agreed to be given from the Committee's own school fund." The Committee of the General Assembly resolved to lay this proposal before the Committee of Council, when my Lords thus expressed their understanding of this proposal, viz.,—That certain members of the Committee of the Glasgow Education Society will assume, as an individual and personal

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responsibility, all debt owing to the Society after the £5000 has been applied to the liquidation of such debts; that the General Assembly will sustain no responsibility with respect to any creditors of the Glasgow Education Society; and that the creditors will have no claim on the buildings, which will be subject to no mortgage, either on the part of the Society or of the General Assembly." With reference to this debt, for which the individual members of the Glasgow Education Society were liable, it appears that, up to the meeting of Assembly in 1851, the sum of £4125 had been raised, of which £2097, 13s. 6d. had been drawn from a sale of ladies' work in Glasgow. The remaining portion of the debt incurred by the Education Society was afterwards paid by the General Assembly, but without interest, since that the members of the Glasgow Society had expressly undertaken to provide. The buildings erected by the Glasgow Education Society were transferred to the General Assembly after the £5000 had been paid by the Committee of Council, and in 1845 a sub-committee was appointed in Glasgow for the purpose of managing the Normal School there, of which I then was, and have since continued to be convener. When the buildings were entrusted to the charge of the committee, it was found that all the pupils had been transferred to buildings erected in the neighbourhood of the original edifice, and under the charge of the Free Church. With the exception of the teacher of Music, the rector and all the masters, with the janitor, had also left. It was not thought judicious to elect at once a complete staff of office-bearers, and for two or three years no rector was appointed, his duties being discharged by the head-master. The annual contribution provided by the Committee of Council was not granted until a rector was chosen; but, since his appointment in 1849 the school has been conducted with great efficiency and success. The practising schools have been fully as numerously attended as the accommodation admits, the attendance at present amounting to 786; of whom 315 belong to the Established Church; 141 to the Free Church; 240 to the United Presbyterian; and 90 to other denominations. They are taught in the various schools all the branches of a first-rate English education.

What is the number of students at present in attendance in the Normal School at Glasgow?—There are 106, viz., males, 49, and females, 57. Of these, 79 belong to the Established Church, and 27 to other denominations.

How many of the students, after passing the Government examination, go off to other employments?—Very few, so far as we know. Last year, in April, it was reported that there were 23 students waiting for appointments, who had finished with us in December previous.

That was the produce of one year?—Yes; but there are not very many appointments made between January and April; and on inquiry the other day, I found that there is only one of those not employed in teaching.

Those who have got employment, are they generally in parochial schools?—They are in very various schools.

But they are all teachers?—Yes. I should mention that the figures I have given refer to the males. I find there are ten females who were waiting for appointments.

Do you know how many of these have accepted employments of other kinds, which will take them away altogether from the teaching profession?—I don't think more than one or two.

You think that it is an infinitesimally small proportion of those whom you pass who don't become teachers?—Yes; but they don't all become teachers in schools which would benefit us under the Revised Code.

But they become teachers?—Yes. Of course some of the female teachers marry.

What is your opinion of a University education for training teachers?—I do not think it would be suitable. However valuable a University education may be for young men who have been early well grounded, and who are persons of ability and ambition, the large number attending the classes, and the method of instruction adopted by professors, would not be suitable for the class attending the Training Colleges. Under the constant superintendence of the teachers during the greater part of the day, they are constrained to work in a way which could not be carried into effect at a University. Besides, the authorities of the Training College exercise a power which would not be submitted to at a University.

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The students are warned, on their entering, that any neglect of their studies, if persisted in after warning and expostulation, will be followed by dismissal.

Are you not aware that a large proportion of the best teachers in Scotland have been students in one or other of the Scotch Universities?—I am aware that that was the practice at one time; but the whole system of education is very considerably changed in Scotland, compared with what it was. Much more attention is now paid to elementary education; and for the training of teachers to give elementary education, I conceive that our Normal Schools are better fitted than the Universities.

What is the sum which the Glasgow Normal School has been receiving of late years from the Government grant?—A great part of what we have received is expended on the allowances for Queen's scholars, which was merely paid over to them. The income which we require amounts to between £4000 and £5000.

What is the annual expense of the institution?—We have been under the necessity hitherto of expending on it all that we have received.

But does the amount received from Government provide the whole expense of the institution?—No; £250 is got from the Church, there are school fees, and a fee of a guinea is paid by some students.

The income derived from all these sources is required for the support of the institution?—In its present state, certainly.

There is no surplus?—It is impossible, in such a large sum, to prevent a surplus of £80 or £90, but I believe there has frequently been even less.

What is your opinion as to the effect of the New Code, in its bearing on the Training Colleges?—One evil of it is the extreme uncertainty of the income which it would produce. At present when we train students, and when they pass an examination, we are quite sure of receiving a certain grant for each student, paying us for the expense of training beforehand; when the Revised Code comes into operation, we shall not merely require to train them, but maintain them; and our only resource for that is the sum, which may amount to £100 in five years, to be obtained for students who have left us, and who have remained two years in a school,—who have received what we call a parchment certificate from the Committee of Council. Another objection is, that though hitherto the Church has contributed £250, it has not contributed much more; and it is required by the Revised Code that it should contribute one-fourth; so that if the school costs £4000, the Church must raise £1000, and we don't see that it will be possible to raise £1000 merely for the Normal School; more particularly because part of that sum will be laid out in the support and education of students, many of whom are not connected with the Established Church at all, and we think that our people will not subscribe money to educate people that are not connected with them.

That being the case, that you find practically that the young men and young women from different denominations attend your schools, without any reluctance, and that the same observation applies to the Free Church Training School, do you think it absolutely necessary that there should be two training schools in Glasgow and two in Edinburgh?—When the training school in connexion with the Free Church was instituted, there must have been an impression that it was required; two were added in 1845; but besides that, such is the nature of the training given in Normal Schools that a very large number cannot be beneficially trained in one place. The surveillance we require to exercise over them is so close and minute, that we could not overtake more than about the number we have at present,—perhaps ten or twelve more. Therefore I hold that the two Normal Schools are requisite, because you could not in one give instruction to the whole number so successfully as in the two.

Do you mean that 106 are as many as could possibly be trained efficiently in one institution?—You might train 120 or 130, but certainly not more.

If you had a larger staff, could you not have the same system of surveillance as you have now?—You would require to have double rooms. But there is another objection: if both schools were combined, there must be a combination in the management; and my decided opinion is, that while at present we and the Free Church go on with perfect harmony, the same harmony would not be maintained if the two were combined.

You think that common management is impossible?—I think it is impracticable.

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Supposing the Church found it difficult under the New Code to maintain the Normal Schools, do you not think that they might be kept up on the ordinary principles of demand and supply; now that better salaries are given to teachers, and that there would be a positive money value attached to the certificate of a training college, do you not think that a sufficient number of pupils would come up to make it a self-supporting institution?—I have great doubt of that. Though the emoluments of teachers are larger than they were, yet in such a place as Glasgow young men obtain higher emoluments in many other ways, and most other professions are better paid; so that the temptation to become teachers is not very great. Another circumstance to be taken into account is, that the mode in which these schools have been conducted has produced such a reliance on the support of the Government that it would not be easy to root it out at once.

From what class of society does the majority of these students come?—Many of them are the children of very small farmers.

Of persons who you think would find it difficult to support them in such an institution if they had not assistance?—The great majority of them. There are a few in better circumstances.

Does it practically amount to a free education to those who do pass?—Distinctly. The present allowance to Church bursars is, £23 to males, and £17 to females; and we purpose that the fees paid by self-supporting students shall be £5 and £3, but the number of these is very small.

Are any fees charged at present?—Yes; for those who support themselves.

How do you distinguish between those who are self-supporting and those who are not?—They come up to us, but we can only elect a certain number, and we do so after examination; any of those not elected may be admitted if they support themselves.

What is the fee under the Old Code?—£2, 2s. for males, and £1, 1s. for females.

Do they lodge in the institution?—No; their fees are for their education.

Did I understand you to say that you had already, in contemplation of the Revised Code, drawn up a scheme for the future management of the Normal School?—Yes.

Then you do contemplate the continuance of the institution under the New Code?—We must attempt it.

Do you look on the New Code as already in operation?—Not till the end of this year.

What is your scheme for supporting the Normal School under the New Code?—Our proposal is to attempt to carry it on by the students paying fees; we of course allow them so much; we are to receive a certain proportion of what we had before, for the next year. The Revised Code, in its full extent, does not come into operation for some years, and a proportion of our income for last year is given us as a secure matter.

There is a transition period, during which you are to accommodate yourselves to the new circumstances?—Yes; so that we are not very much afraid for a year or two.

Have you any opinion to state to the Commission in respect to the operation of the New Code, as regards the general system of education in the country?—In many schools I don't think it would be hurtful; but in one of my own schools, which I visited the other day, I find it will be rather hurtful; because, though there are 210 children on the roll, the period of their attendance is so short that the teacher tells me that they will not get the benefit of the Revised Code. In regard to another of my schools, the teacher tells me that his pupils attend so well that he will be fully better under the Revised Code.

So far as it may induce the teachers and the Church to put a pressure on parents to make their children attend, do you not think it will have a good effect?—Yes. I think there are good things in it; but the inquiry into the condition of the parents of the children the people will not like, and I think it is quite useless.

You don't say it is impracticable, but you think it would be invidious?—Yes; and it would probably induce people to take their children away from school. The principal difficulty of the Revised Code will be, that the managers of schools must incur a responsibility without any positive certainty.

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I suppose the inquiry into the condition of the parents could be conducted without direct reference, generally speaking, to the parents themselves?—The difficulty is to make the minute distinctions proposed; for example, it is provided that every man may have the benefit of the grant who engages in manual labour, but if a man has an apprentice he does not get the benefit. Now, many of our people—masons, for example—engage in manual labour, and have apprentices. Then inquiries are also proposed as to the social position of the people with whom they associate.

You think these inquiries are much too wide?—Yes, or rather too minute.

You think that, roughly speaking, it might be possible to make a distinction between the children of labouring people and others, without making such minute inquiries?—It might be so; but I think it would be a temptation to make a teacher restrict his school very much to paying children; and I think the advantage to education generally would be very much diminished by it.

Have you any objection to the system under the New Code, by which so much special attention is paid to the elementary branches of education, so far as payment is concerned?—Formerly, less attention was paid to the elementary part of education, and more to the higher branches in some schools; and I have generally found, where the teacher was a good classical scholar himself, that he attended too much to the higher education, and neglected the lower. I think the whole system that has been pursued for a good many years has been the reverse of that. I think you cannot have a school well taught where both the higher and the lower branches are taught by the same person. That is one of our difficulties. Perhaps the best plan is to have a large elementary education, such as you have by the present system; and we ought also to have schools for the higher branches.

Do you think that in Scotland there was the same amount of deficiency in the elementary education which was reported as existing in the schools in England?—Not to the same extent; but the elementary education was too much neglected.

Then, in that respect, you think the New Code does address itself to what was a deficiency in the present state of things?—Yes.

And that in that respect its operation will be beneficial?—I think it is calculated to be beneficial to the masses.

Mr. Dunlop.—Your parish contains Blythswood Square, does it not?—No; it does not go farther west than West Nile Street.

But it contains a good many dwellings of well-to-do people, who could afford to contribute to such schools as you erect in your parish?—My congregation does, but not my parish.

Your congregation is not parochial?—I don't think there are many members of my congregation who are residents in the neighbourhood. But the congregation does a great deal for education in the parish. Last year we spent £647 on education and other good works in the parish, including also the schemes of the Church. My congregation, however, is not now so large or so wealthy as it was ten years ago, before the West-end churches were built.

Are there not parts of Glasgow in which there is greater educational destitution than your parish?—Our present schools are in decidedly poor localities.

If you were deprived of the aid you have now from your congregation, would you be able to maintain your schools with the same efficiency?—Not to the same extent; but we maintain only four of the schools I mentioned; two of them were erected by partial grants from the Privy Council before I went to Glasgow; there are two in another part of the parish, which were erected by my congregaton subscribing from £900 to £1000, without applying to the Privy Council at all; we pay an annual rent of £18 for the ground on which they are built. I find that we expended on two of our schools last year, £77, 0s. 9d., and £18 contributed by ladies; and on the other two, £112, 14s. 7d., and about £13 contributed by ladies.

Do all your teachers get augmentation grants?—All of them did.

You stated that you did not think a board comprising two or three clergymen of different denominations would get on harmoniously: have you ever had any experience of co-operation with brethren who are not of the Established Church in carrying on benevolent enterprises, and have you found that you could not get on harmoniously?—I cannot say that I have ever had any great experience of that.

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Then you speak from theory, not from experience?—I speak from impression.

You said that the students attending your Normal School are chiefly sons of small farmers?—And sons of schoolmasters.

Are they chiefly from the country?—We have always a few from Glasgow, but the mass come from the country.

Mr. Ramsay.—You have stated that you think there is no deficiency of school accommodation within your parish, though there is a lack of attendance: on what do you base the opinion that there is no deficiency of accommodation,—have you formed an estimate of the population of your parish?—I think the population of the parish cannot be very much more than 20,000; but I base it rather on the fact that there is so much accommodation not made use of.

If the population of your parish is 20,000, you would not suppose that the attendance at school should be limited to the number for which accommodation is provided?—One must consider that of that class of children it is only those between five and ten years of age who can be expected to attend school, and of these a great many can only attend for a short period of that time.

Have you no infant school in your parish?—We have a large infant school in my parish,—one of the practising schools of the Normal School.

Is the attendance at that infant school included in the total attendance of 2260?—Yes.

But these children are younger than five, and there ought to be a fourth of the population between four and fifteen?—The infant-school system is by no means what it originally was in Glasgow. The children are not so young.

You stated that one of your schools is not well attended: is it in a locality as poor as the others that are well attended?—It is in very much the same locality.

I suppose your best teacher has the best attended school?—No doubt of it.

Is it your experience that the attendance does vary with the aptitude of the teachers in communicating instruction?—Yes, generally.

But other things being equal, will a good teacher command a good attendance?—Unquestionably, and that is a most important element.

You have suggested that rewards should be given to induce children to attend school, do you think these rewards should be given to the children of all classes?—The object of giving these rewards would be to induce parents not to sacrifice their children by making them work for the weekly pittance of ninepence or tenpence, and of course it would not be required for parents in good circumstances. I should say very minute inquiry must be made as to the circumstances of the children who get the reward.

You would propose that it should be somewhat in the form of remuneration for attendance?—Yes, for successful attendance.

Would you make it a weekly payment to the parents?—No; let so many children be placed in the rank of those who may obtain this reward, and at the end of six months let them undergo an examination, and let those who pass through that examination obtain what would, if spread over the time, amount to nearly the sum which the children would have made.

To whom would you leave the selection of the children who should receive this reward?—The managers of the school would take charge of it.

Mr. Davidson.—You say there is no deficiency of schools in St. George's parish; is every other parish in Glasgow as well supplied?—I am not prepared to say so.

Do you mean that in St. George's parish each denomination has a sufficiency of schools for the children of that denomination?—It is impossible for me to answer that; but the children attending my schools are of all denominations. I don't think that the children in any one school are of a particular denomination, except, perhaps, the Roman Catholics.

Are there many Roman Catholics in your parish?—Yes, a great number.

How many schools have they?—I have been able to find out only one in the parish. I have not discovered how many children attend it.

Have you Roman Catholics in your schools?—No, I never heard of it.

Have you Episcopalians?—Yes.

With the exception of Roman Catholics, you have children of all denominations in your schools?—Yes.

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In all your schools religion is taught?—Yes.

You stated that if a national system were adopted, it would be impossible to teach religion in a school which embraced all denominations?—I think so.

How then do you manage it in St. George's parish?—Because it is not forced on those who are unwilling to have it taught to them.

Is that really the case in many instances?—I cannot say positively; but that is a general permission.

Is it a permission that the children avail themselves of?—I cannot say.

What is the religious education in your schools?—The Bible and Shorter Catechism.

Then, so far as you know, all the children attending your schools are instructed in the Bible and Shorter Catechism?—So far as I know they are, but I am not prepared to say that there are not exceptions.

If there are any, would they be few?—I think they would, because, though the schools are open to all denominations, the number of other denominations who attend is not very great. I should say the Episcopal schools are principally attended by Episcopalians, and the Roman Catholic schools, of course, entirely by Roman Catholics. I should say also that the Free Church schools are to a large extent filled by Free Church children.

Could you give us any fuller explanation of your view as to the impossibility of a national system embracing all denominations?—If it were a national system embracing all denominations, you must take in all classes of the religionists, and of no-religionists; you must take in Unitarians and Roman Catholics, and persons who profess to be infidels, and who will have nothing to do with religion. It is impossible to have a national system unless you are prepared to throw it open to all classes of the population, because, if religion were taught, those who object to it might say that they were required to pay a rate for the upholding of a school in which their children could not be educated.

To how many bodies or sects in the country do you think that objection would apply?—It would apply to Roman Catholics and to Unitarians.

To any other?—I don't know that it would apply to other sects; but it would apply to a considerable number of secularists, who deny the propriety of having any religious education.

You think they would object to their children going to the national school, even though there was a provision, as there is in your schools now, that their children should not be taught religion if their parents disapproved of it?—In the one case they would be managers of the school themselves, and would be entitled to object; but at present, I open a school, my session maintain it, and these people may come or go without having one word to say. If you create a national system, you cannot do so justly without giving every individual in the country the same right to have the education of his children conducted in the way he chooses.

Do you think that if a national system were introduced, with the management in the parents or ratepayers, it would operate in the way of preventing religion from being taught in the schools?—In the first place, it would produce the greatest discordance as to the kind of religion that should be taught. You would find in every parish people with certain crotchets, even upon religion, who would insist that it should be given in their own particular way. On the other hand, I believe the effect would be to make the office of a teacher so wretched by the perpetual interference of these people, that no man who could make a living in any other way would become a teacher. If you make the situation of a teacher very disagreeable, as it would be by the perpetual badgering of a local committee, you will get no man to be a teacher at all. I think that in a great number of our parishes, there would be a committee so very troublesome to deal with, and so utterly ignorant of education, that the teacher's life would be made miserable.

How many Unitarians do you suppose there are?—There is one congregation in Glasgow, but I cannot tell the number.

In the country generally, I suppose, there are very few?—Very few, so far as I know.

Practically, the objection in regard to the religious element would be the Roman

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Catholics?—I have mentioned that there is a very great number who, although professedly members of the Established Church and other Churches, decidedly object to have religion taught at all in schools. There are what I would call the secularists. They want education to be conducted according to what is called the element of pure reason, without being guided or controlled by religion.

You have been a minister of a country parish, how often do you suppose the clergyman of a country parish visits the parish school?—It is impossible to say; perhaps once a week, or once a fortnight. My teacher was one of my elders, whom I had to consult very often, and I was frequently in the school.

Do you think the clergyman generally visits once a week or so?—I think so. That was the case when I was in the country.

Mr. Mitchell.—I suppose you have spoken chiefly of your own parish in Glasgow?—I cannot speak from personal knowledge of the others.

Have you any reason to suppose that the religious element which pervades the teaching in your schools prevents any children in your parish from attending?—I am not perfectly sure that it does. It is impossible to say what motives people have in keeping their children from school. I cannot say that that complaint was ever made to me.

If a system of religious teaching, such as is followed in your parish, were extended over the country, don't you think it would be attended with the same results?—But in St. George's parish there are other denominations who have their schools also; and if the same system were extended over the country, you would have all denominations managing their own schools.

And they have all the religious element in them?—They must, or they would not get Government aid. There are many schools, however, that don't get Government aid.

Sir J. Fergusson.—You said you did not think it possible for the higher branches and the elementary branches to be taught efficiently by one master?—Yes.

Would both these objects not be better attained by having larger schools, taught by more than one master each?—I don't think so. I think the object might be better attained by having separate schools for the different subjects.

In country places, where the number of children desiring the higher education was insufficient to maintain a school, any few that there might be, would in that way be deprived of it altogether?—That is one practical difficulty we have in Scotland.

But the object would be attained if the schools could be combined, so that both kinds of education might be given?—To a certain extent, something might be done, by giving the teacher at the head of it a certain number of assistants, who could give the younger branches education. At the same time, I have long thought that the want of preparatory schools for the University, is a great want in Scotland.

With reference to the religious teaching of the schools: how would there be less security for the religious teaching, supposing the parishioners elected the members of the board of management, than there is at present under the heritors?—So far as I understand the Acts with reference to the schools, there is no overturning of a certain supervision which the Presbytery and the minister have. The Act of 1803 contains certain provisions, which are not, so far as I see, overthrown by the recent Act. In that Act, it is distinctly stated, that the superintendence of the schools shall continue with the ministers of the Established Church as heretofore; and I see it is still provided, that certain complaints cannot be made without consulting the Presbytery; the Presbytery, therefore, cannot exercise the duties laid on them by the new Act, without having a superintendence of the schools. I hold, therefore, that at present you have a guarantee. I certainly think it was a blunder in legislation to take away the test from the teacher; I think that test ought to have been retained; but though it has been abolished, I hold that the minister and the Presbytery have still a certain superintendence over the parish schools.

Do you consider the security for the religious teaching to be, in whatever superintendence still remains, with the Presbyteries, or in the clause requiring it to be in conformity with the Bible and Shorter Catechism?—Even if the latter were the security, it lies with the Presbyteries to ascertain whether it is done or not.

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There would be no difficulty, would there, in retaining the clause requiring the teaching to be in conformity with the Bible and Shorter Catechism, even if there were elected members associated with the heritors?—No; but the clause would not be equally efficient as it is now, under the direction of the Presbytery, because it would then be under the direction of a board.

But, apart from the question of Presbyteries, if that clause were retained, there could be no question in the elected board upon that point?—Not on that particular point; but I should object to any system, called a national system, which should limit the religious element to the Shorter Catechism. I hold that if it is to be a national system, you can have no limitation of the teachers to teach any particular kind of religion, without acting unfairly to those who object to the Shorter Catechism.

Is it not maintained that the parochial system is a national system in itself?—It was a national system, in so far as it was connected with the Established Church. It is not now a national system, to the extent of overtaking all the education in the country; but, inasmuch as we have a National Church, and the parochial schools are connected with the Church, in that respect it is a national system.

Although the holders of property, or the tenants in your parish do not contribute to your schools, might they not fairly be taxed for the maintenance of schools to be attended by the children of your poorer parishioners?—That is a very difficult question. All questions, with reference to taxing in towns, are complicated. They are not taxed for the support of the Established Church in towns. A great amount of the wealth in St. George's parish consists of warehouses and shops, and I should think it would be, in practice, a very difficult thing to institute a tax for the support of education. According to the Poor Law, I think the Parochial Board should do something for the education of poor children.

But these warehouses are taxed for the maintenance of the poor?—Yes.

Lord Jerviswoode.—Is there a very large Roman Catholic population in Glasgow and neighbourhood?—Very large. I suppose there cannot be less than 100,000 Roman Catholics in Glasgow.

And chiefly of the poorer classes?—Yes.

Mr. Cook.—Suppose an attempt were to be made to get quit of the religious difficulty by the establishment of a system of schools for purely secular education, leaving the religious teaching to be the work of the clergy of the different denominations, in Sunday schools, or otherwise, do you think it would be favourably received by the country?—I not only think it would be unfavourably received by the country, but I think it would be no education at all. I hold that without religion it is not education. You cannot give education by merely communicating a certain amount of knowledge; because education includes training, and you cannot train without religion.

Then you think that the establishment of a plan of that sort, by a complete separation between secular and religious education, is impracticable?—Impracticable and wrong.

Mr. Black.—I understood you to say that you were perfectly satisfied with the denominational system as it exists in Scotland at present?—To this extent, that there might be schools established which are not now in existence, and which are required. I am quite satisfied with the system.

You are aware that the supplementary grants are given in proportion to the amount provided by the district applying?—Hitherto that has been the case, but it will not be so under the New Code.

Do you suppose that the districts of the Highlands, where there is a considerable want of education, will be able to raise a sufficient amount to enable them to get the grant?—Probably not; and I should modify what I said as to the system, to this extent, that in reference to some of our ragged schools, and to remote districts, where there is great poverty, there ought, had the former system continued, to have been a relaxation, and even under the New Code there would be great difficulty in the poorer places availing themselves of the grant.

Then you do not approve of that essential characteristic of the denominational system, which gives to the denominations according to the amount which they themselves provide?—Generally speaking; but these are exceptional cases.

They extend over a great part of the country; *e.g.*, I find that in 1862 the grants for Scotland amounted in all to £97,992, of which £91,394 was given to

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the Established and Free Churches: do you think that was a fair distribution of the money granted for Scotland?—The probability is that that arose from the circumstance, that both the Established Church and the Free Church have education schemes; and whatever the Church gives for the maintaining of schools in the Highlands and Islands, is regarded as the *quid pro quo*. It does not necessarily come from that particular district; if you have a sufficient number of people willing to supply the amount that must be raised, then they would get the Government grant.

Should not a national system of education be such as would provide for the education of the people generally, without those exceptional cases?—You cannot accomplish that, unless you make the country educate the people altogether.

Then you suppose that a national system is impossible?—A purely national system, with the religious element, by which I mean, not a system that will include two or three denominations, but a system that would include all, irrespective of denominations.

I find that there was given to the Episcopalians £4553, and to the Roman Catholics £2044: now, do you think that was a fair distribution between these two parties?—If you look to the numbers, I don't think it was such a distribution as might have been expected; but it was fair in this sense, that it must have been given in proportion to the moneys which these denominations raised, and with reference to the circumstance that the teachers passed an examination, and were certified.

Are not the Roman Catholics generally very poor: I think you said that they had only one school in Glasgow?—That was in St. George's parish, and only so far as I know. They have a great many schools in Glasgow; but though a number of them are poor, they get great assistance from foreign sources; they have, no doubt, had schools built from money not raised by themselves at all.

Would not that count for the grant?—It is not mere money that does it; before the grant can be got, the men must have passed an examination.

Therefore the system does not meet that part of the population?—You cannot make a system that will meet the wants of people who don't come up to your mental acquirements.

Mr. Mure.—Have you had any acquaintance with the Privy Council system of grants in aid in the Lowland districts, separate from your own church in Glasgow?—No; they had not come into operation when I left the country.

You cannot speak then to this point, whether the system has led to a multiplication of schools in these districts beyond what was required for the population?—I don't think that it has to any large extent. I have heard once or twice of schools being put down too near each other.

But you cannot speak to that from personal knowledge?—No.

And you cannot say that the system is opposed to that objection?—I should not be disposed to give an opinion on that, because it is a mere impression.

You think it is exposed to the objection that in remote localities it does not provide sufficient schools?—I think that is a decided objection.

Is it not exposed to the objection that there is a certain large class of Presbyterians in Scotland, I mean the United Presbyterians, who for reasons of their own don't accept the Government grant?—It is perfectly well known that there is a body of them that don't do so; because they say that Government should give no assistance to religious education at all. It is not the whole body of United Presbyterians who do so, but a number of them do.

But as a body they act on that principle?—I don't know that they have laid it down; but they have not done much in the way of establishing schools. I don't think they receive Government aid for any of their schools.

As far as your experience goes of the schools in Scotland at present, and also referring to the period when you were a parish minister in the country, was there any difficulty in the children of different denominations attending the parish school?—I cannot say I ever saw any difficulty in the children attending. I believe that had there been another school erected, and taught and managed by another denomination, the children would have gone to that school rather than to the parish school. I think you always find that there is the greatest number of children connected with the denomination which manages the school.

So that having schools nominally belonging to a particular denomination, leads,

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in your opinion, to the training of children according to the peculiar views of that denomination?—Undoubtedly, to a large extent.

And that whether the tenets of the denomination are taught in the schools or not?—The management of the school is in that denomination; and, so far as the managers can influence it, there can be no doubt that their influence would be thrown in the direction of maintaining their own particular views.

Is it the case that in the schools in Scotland, the influence of the managing body has been directed hitherto to educating the children according to the tenets of that particular body?—These tenets have been generally, so far as I know, as taught in our schools, the Bible and the Shorter Catechism. I believe if any denomination had found that a teacher was conducting his school contrary to the ordinary practice, there would have been an immediate interference to prevent it; but I don't think there has been any necessity for such interference.

Then they don't teach the tenets of their particular denomination?—We have no distinctive tenets; we have no particular catechism bearing on our principles as an Established Church. There was a catechism published by the Free Church, but I don't know whether it is taught in the schools, though I suppose not.

Then the teaching in the schools has not tended to denominational teaching?—I don't think it has; at the same time, the management has been denominational.

Do you think it desirable that a system which is open to the objection (assuming it to be so) of multiplying schools in localities where they are not wanted, and of not providing schools in localities where they are wanted, and of not being of a description that can be made available for the large denomination of United Presbyterians in Scotland, is a system that can be said to work well for the purposes of education?—I don't see that it, of necessity, nurtures schools beyond what are required.

But I say, assuming that it does?—If that could be made out it would be an objection to it; but one must consider what would be the effect of a system that attempted to combine different denominations. The consequence would be, in all likelihood, that as soon as the managers differed on any serious matter, they would start off and erect a school for themselves. It appears to me, that a system which would propose to dispense with the present plan would multiply schools much more than the present plan does. So far as I am aware, when the Government inspector is required to report on a school at present, one of the elements of his report is whether the school is required for the district; and that is one means of preventing the present system from multiplying schools. But suppose you set a certain number of people to manage the schools, if they differed, so many of them would erect a school of their own, and in that way you would just be preparing for the multiplication of schools unnecessarily.

I simply asked you the abstract question, whether, assuming the existing system to be open to the objections which I stated, you think it a desirable system to continue?—It is somewhat difficult to answer that question, because it proceeds on an assumption, the correctness of which I don't admit; but were the assumption one that I thought sound, I should say it was not desirable.

Then you have a difficulty in seeing anything that could be substituted instead of it?—Anything better. I am by no means prepared to say that there are no objections to the system. What I say is, that, compared with any other system that I can imagine, it is better; that the objections to it are not so serious as the objections that might be started against others.

Your difficulty about any national system, is the difficulty as to the management, and the difficulty as to the religious question?—Yes; and the impossibility of making a system that would really satisfy all parties, unless you sweep away religion altogether, which I hold to be impracticable.

Am I right that these are your three main objections: the local management, the religious difficulty, and that you could not actually make it available for every denomination?—Yes.

According to your view, we have never had anything in Scotland which can be called a national system?—Not farther than we have had a National Church. To the extent that we have a National Church we have had a national system.

In the beginning of this century, did the schools not provide education for the whole people of Scotland?—At that time, I suppose it was understood that they overtook the education of the country to a large extent.

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There were Dissenting bodies in Scotland then?—They sent their children to the schools.

And the Roman Catholics did so too?—Yes.

Why should schools in the present day not be national schools, in the sense of educating the whole population, as they did at the beginning of this century?—Because you could not have schools to meet the demands of the population now without levying a rate.

But apart from the local management, and looking to the fact of the parents of whatever denomination being inclined to send their children to the schools, would there not be in that respect the same expectation that the schools now would educate the people, as well as they did at the beginning of the century?—I don't think so. There can be no doubt that the Established Church occupied a very different position with reference to the whole population then from what it does now. It was the great Church, comprehending the Free Church, and a large body of the United Presbyterians. But it is quite different now. Supposing the schools were all similar to the parochial schools, I don't think it could be reasonably expected that all denominations would send their children to them.

But suppose they were not all similar to the parochial schools, in the sense of being under the same management, would there be any difficulty?—I should like to understand what kind of management would be proposed.

Suppose there was a provision, similar to that in the existing Act, as to teaching the Bible and Shorter Catechism in the schools, thereby providing for the religious question, and that the board of management consisted of the existing heritors, with some other elements introduced into it, would there be any difficulty as regards the school being attended by the children of the different denominations?—If the Church is to be connected with it, even in the sense in which it seems to be connected with it in the last Act, there would be decidedly an objection to a large extent, on the part of some, to send their children; or rather they would erect schools of their own.

Supposing there was no actual superintendence of any particular Presbytery in a school of that sort, would the children not go to it?—If there was no actual superintendence of any particular Presbytery, I hold that you would not have a sufficient guarantee for the religious element.

Not if there was an obligation in the Act of Parliament on the teacher to teach the Bible and Shorter Catechism, with a local board of management to see that that was carried out?—But what is to be the local board?—that is the difficulty.

As to the Normal Schools, is there such a school in Aberdeen?—It was attempted there many years ago, but it does not seem to have succeeded.

Do the students in the Normal School at Glasgow come from all parts of the country?—Yes.

With reference to the question put to you as to the possibility of having one Normal School instead of two in Glasgow, I understood you to say that the difficulty was that one would not be sufficient, and that you could not educate more than you do?—That is one difficulty, but there is also the difficulty of management.

But don't you think it would be desirable, instead of having the two schools in Edinburgh and the two in Glasgow, to have one in each of these places, one in Aberdeen, and one in St. Andrews, thereby accommodating the pupils who now come from the north, and reducing the number that would come to Glasgow?—I don't know that that would be of great importance. In the first place, it is a serious matter to erect the buildings for a Normal School, and these are now in existence in Edinburgh and Glasgow. The facility of coming from one place to another is also so great, that there is not much objection in students coming from the north to Glasgow.

Is not the expense considerable to the young men, looking to their positions in life?—It is very trifling. That would never prevent them from coming.

You have stated that you think the education of late years in Scotland has been more exclusively confined to elementary education than formerly?—I speak from my own observation. It is so in the schools that I am in the habit of examining.

Then the operation of the Old Code has been to improve elementary education?—I think so.

Lord Belhaven.—Did you mean to state that there were 100,000 Roman

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Catholics in the city of Glasgow?—Yes; in the city and barony, within the 400,000 odds of a population.

The Lord Advocate.—I understand that your main objection to a national system is the fear that in any management unconnected with the Church, the secular system would prevail?—That is not exactly the way I would put it. My impression is that you cannot have what would be entitled to be called an entirely national system, without the secular system being introduced.

But practically, looking to the state of Scotland, do you think that you cannot have a system which would substantially embrace the whole Presbyterian population, without excluding religion?—My opinion upon that is very decided. Were I a legislator, I certainly should not consent to any Act that restricted the benefit of education to any denominations whatever, and excluded people who were of no denomination, or who denied the propriety of religious teaching.

I am not talking of the legislative exclusion of anybody, but do you not think that you could not have a system which would be substantially satisfactory to the whole Presbyterian population without excluding religion?—I must repeat that you could not have it without restricting it to certain denominations,—Presbyterian denominations.

Without excluding religion?—Yes, that is my impression.

And you would not consider it a beneficial thing for this country if you could have a general system which would embrace all Presbyterian denominations?—I would think it an unjust thing.

To whom?—To those out of the pale of these denominations.

In what respect?—As an inhabitant of the country—as a subject of the Government—whatever my opinions are, I am entitled to the same privileges which you are conferring on these people.

What is your opinion of the state of the parochial schools of Scotland at the beginning of this century,—I mean as to the justice or injustice of that institution?—I think that the Established Church, having been recognised by law, the connexion of the parochial schools with the Church was a fair thing.

Was it a just thing?—I think it was as just as the maintenance of an Established Church.

You said that to have now a national system embracing all the Presbyterian bodies would be unjust to those who were not Presbyterians?—Exactly.

You said it could only be made just by excluding religion: I want to know whether you consider that the parochial system was a national system at the beginning of this century, and whether you consider that it was just or unjust?—I hold that it was perfectly just then.

Did it exclude anybody?—It did not exclude anybody, but it did not lay a tax on any one for education.

If a Roman Catholic heritor was taxed to support the school, did that not tax anybody?—You did not tax the Roman Catholic heritor. I hold that the money belonging to the school and to the Church did not belong to the Roman Catholic heritor at all. It was money appropriated to a particular purpose by the State, and he as an individual had nothing to do with it. I don't consider that when a heritor pays a stipend, he is paying it out of his own pocket.

When the schoolmaster's salary was increased three years ago, were you not taxing the heritor?—You were merely laying a burden on the land.

Is that not taxation?—It is not taxation in the same sense that ratepaying is.

If the rate to be laid on is to be laid on the land, on the real property, is that a tax?—No doubt, in a certain sense it is a tax.

But in your sense is it a tax?—You may call it a tax.

Do you call it a tax?—I don't call it a tax in the same sense that I would call a rate laid upon individuals a tax.

But suppose the rate is not laid on individuals, but is laid exclusively on property, one-half on the owner and one-half on the occupier, is that a tax?—Well, supposing I acknowledge that it is?

Then, in what respect does that differ from the rate laid on the heritors at the beginning of the century?—The rate laid on the heritors was laid upon the land.

And the rate I am now talking of is precisely the same, because the landlord was entitled to recover from the tenant a proportion of the schoolmaster's salary; in short, the two things are precisely the same?—The whole system on which that was conducted was the principle that the Established Church was recog-

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nised, and that these schools were considered as appendages in some way of the Established Church.

But do you think that a system, according to your own principle, which is just or unjust?—I must just fall back on what I said before; it seems to me to rest in precisely the same position that an Established Church does.

But you said that a particular system would be unjust, because it would exclude certain persons: I want to know whether you think that the other system was just?—I hold it was just, because so long as you have an Established Church, you are not doing anything unjust when you erect schools in connexion with that Church.

Although you tax all denominations for the purpose of supporting the schools?—And so you may say that you tax all denominations for supporting the Church.

But we are not dealing with that?—I cannot separate the two; I hold the one to be connected with the other.

Then, if the parochial schools were no longer on the same footing as the National Church, you think they should be abolished altogether as unjust?—I hold that it is the duty of the State to erect schools in connexion with the Church.

Sufficient for the whole population?—Sufficient for those who are desirous to avail themselves of them.

In short, your view is that the principle of an Established Church necessarily implies the principle of established schools?—I have no hesitation in saying so, to a large extent.

And you think there is no more injustice in the one than in the other?—I don't think so. If you are to place it on the ground that because the Established Church is not fitted for the whole population, therefore it ought not to exist, I can understand that argument perfectly; but the nation has not come to the conclusion yet that because the Established Church is not the Church of the whole population, therefore it should be swept away.

But, apart from an Established Church, you think it unjust to tax the country to support any system which excludes people who are not Presbyterians?—I am perfectly aware that in the system that has prevailed for some time, and which I think, all things considered, is about the best system we can get, you are entitled to meet me by the argument that, in point of fact, it really is a taxation on the whole country, because the Privy Council grants are paid by the whole country. But there are a great many things to be taken into account in a matter of this kind. I don't see how schools could be erected in any other way than that there shall be a rate demanded from the residenters in a particular locality.

What I am supposing is, that you lay on a rate as you do the poor-rate, on the real property, half on the owner and half on the occupier?—What I feel is, that any demand of that kind coming directly on the people would practically be looked upon in a different light from what they regard money given by the Privy Council.

Do you think that the principal objection to such a system would come from the ratepayers, who would have to pay?—I think that many of them who don't want education at all, would probably object to pay on that ground.

You think there are a good many that don't want education?—That don't want religious education.

You think there are a great many who don't want religious education?—I think a considerable number.

Do you know any single instance of a parent who wished his child to be educated secularly?—There is a school in Glasgow, which is a purely secular school, and it is maintained by people who support that principle.

Do you think that there is a large proportion of the parents of Scotland who hold these views?—I don't know that I should say a large proportion.

Is it your impression that the opinions which tend to separate secular from religious education, are wide-spread among the community?—I don't think that at present they are very wide spread, and I think the present system prevents them from being widely spread; but I should be very much afraid that, if what I have referred to were to take place, a considerable number would express these sentiments.

What leads you to that conclusion?—Because I know that in Glasgow there

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are men whom I meet in society, and men of whom I hear, who maintain the propriety of having no religious education at all.

But as far as you know, are they not in a very great minority over the country?—No doubt at present they are in a minority.

But you think the fear of their becoming a majority is an important element?—I think so; and in addition to those who might wish no religious education at all, there are other sects, Baptists and others, who might in all probability object.

They are also a very great minority in the country?—Yes, but they are a considerable number all joined together.

But they are a considerable minority in the country overhead?—No doubt they are.

Supposing the national system were otherwise desirable, you think the fear which you have now mentioned is sufficient in itself to prevent its being carried out?—But that is not the only objection I have to it. Another objection is the difficulty of management.

As to the present parochial school system, supposing there had been no disruption or secession in the Church at all, and there had been no Privy Council grants, would you have thought the parochial system sufficient to overtake the education of the country?—I would not have thought so. But I am quite sure that the Church itself would have made more exertions for increasing education.

Do you think it would have been desirable to have extended the parochial system?—I think it would.

Upon the principle on which it then rested and on which it now rests?—Yes.

What is your security for religious instruction at present?—There is, first of all, the declaration that the teacher is obliged to take; and then I hold that the clauses in the Act of 1803, giving the minister and the Presbytery the superintendence of the school, are not repealed by the present Act.

The management of the school is in the heritors and minister?—Yes.

The heritors may be Roman Catholics or Episcopalians, or they may be secular educationists?—Very true; but it is quite clear from the last Act that the Presbyteries are recognised as persons who are to be consulted in regard to certain proceedings; for instance, complaints cannot be made without the Presbyteries being made aware of them, and so they cannot be in a condition to give an opinion on that matter without having some superintendence.

The schoolmaster may be a Free Churchman, and sometimes is?—No doubt; but, of course, I consider that a pity.

Have you found that the religious instruction has at all suffered from the last Act?—I have not been in the habit of examining any schools except those connected with my own church.

Have you the least idea that religious instruction has suffered in the least by recent legislation?—Practically I cannot say; I am not disposed to give a decided answer as to that; one must look to the theory of the thing.

Supposing there were united with the heritors one or two members elected by the ratepayers,—I mean those rated to the poor rate,—leaving the minister and the Presbytery just where they are, do you think there would be anything endangering the religious instruction in such a proceeding?—I think in all likelihood it would give rise to disputes about the religious instruction, which might be hazardous to it.

Why do you think that?—Because, in the first place, many of those ratepayers who would be introduced would be desirous to interfere injudiciously. I think that is one decided objection, and apart altogether from the religious element, I should object to it on that ground. I think they would not be the sort of people to manage a school properly.

You don't think the ratepayers could be trusted?—I don't think they would act judiciously.

On what do you ground that opinion?—So far as I know, in country parishes, the great majority of them are of such a class that they are not fit to be intrusted with the somewhat delicate matter of managing education, or of managing a teacher.

Nor of electing a person to do so?—In all likelihood, the person whom they elected would be one of themselves.

You think that the farmers and tenants in the country parishes are not to be

trusted?—There may be one or two farmers occasionally who would be fit; but so far as my experience goes, farmers and tenants do not pay much attention to education. Rev. Dr. Craik.

Have they no interest in the education of their families?—I don't say that; but practically they are not persons very well qualified to manage the schools. There is a great difference between taking an interest in a subject, and being capable of managing a school.

In short, you don't think that farmers or persons in the position of paying rates, who have families to educate, are sufficiently intelligent and sufficiently interested to see that the managers are good men?—My opinion is, that to conduct a school one requires not merely to be pretty well educated, but to have a good deal of experience in that sort of work; and I hold that however intelligent our farmers may be, and even men of education as some of them may be, they have had no such experience as clergymen have had in the management of education.

You think that the heritors are quite qualified, but that the tenantry are not?—Practically the heritors intrust the management of the school to the clergyman; at least, so far as my experience has gone, I have never seen it otherwise.

There are a great many adventure schools scattered over the country?—I believe so.

Can you tell us whether religion is excluded in these schools as a rule?—I believe that in many of them the religion depends entirely on the teacher himself.

Excepting where schools have been started, as in Glasgow, by people who hold a particular theory, do you know any adventure school in which religion is excluded?—There was an adventure school in my old parish, which existed for some time, and the person who taught it was a United Presbyterian; I went to his school occasionally, and I suppose any religious education that he gave was connected with his own body.

Which would be precisely the standards of the Church of Scotland?—Yes.

And is not that the rule all over the country, and is not the other a very rare exception?—I am not prepared to say that. I could not, from my own knowledge, give anything but a very vague opinion on that. I don't believe that the adventure schools exist to nearly so large an extent as they did at one time. I think the great majority of schools now which are not parochial, are in connexion with the Privy Council, and consequently they must be connected with a particular denomination.

Suppose a general system were proposed which should be satisfactory to the Roman Catholics and Episcopalians, and satisfactory to the great body of the Presbyterian denomination, do you still think that it would be unjust, unless religion was excluded from the schools, because there are people who don't belong to any of these bodies?—Viewing it as a political question, I say so.

Lord Polwarth.—Do you think it possible that Parliament should define the amount of religious teaching which should be given in the schools?—I don't think it would be judicious, and I should say it would be scarcely practicable.

Would it be acceptable to the people?—I don't think it would. My opinion is, that the religious teaching must come in connexion with a Church of some kind or other.

The Chairman.—You have been asked if you did not consider the present parochial system a national system, and you said it was national in this respect, that it was in connexion with the National Church: don't you think there are other senses in which it may be fairly said that it was intended to be a national system,—don't you think that in respect of the fact that it was imposed by assessment on the whole country by Act of Parliament, and that it was contemplated that there should be a complete system of schools throughout every parish, it may also be said to have been a national system?—That extended it somewhat beyond its purely Church foundation.

Is it not the fact that the original conception of the whole scheme was, that it should embrace every parish in the country, and should be supported by assessment imposed on the property of these parishes?—There is no doubt that that was the original idea.

In that respect, when it was originally urged by John Knox, and afterwards adopted by Parliament, it was intended to be a system co-extensive with the country, and intended to meet the wants of the country?—No doubt of it.

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Its connexion with the Established Church was incidental to the fact that there was then no other Church but the Established Church in the country?—No doubt that was one of the great reasons why it was connected with the Established Church, and because the party who originated the parish schools was the Church.

The fundamental principle of the system was, that it should be a national system, and as there was only one Church, it was connected with the Established Church?—Yes.

Don't you think it may be fairly said that when circumstances have so far changed that the Church is no longer the Church of the whole people, as it was, it would be reasonable to open the national system of education, so far at least as eligibility for mastership is concerned, to all the denominations of the country?—A great argument against that is, that it is depriving the National Church of a certain privilege. While the National Church is permitted to continue, a privilege which it had is taken away from it. I should say the logical way would have been to have spread the National Church too.

Is it in the power of an Act of Parliament to spread the National Church?—It seems to me that if the circumstance that the Church has ceased to be the Church of the nation was an argument why the schools should be spread over the different denominations, the conclusion should have been previously come to, that the Church, having ceased to be the Church of the nation, ought to have been distributed over the different denominations.

You think the education of the country ought to be strictly connected with the National Church, so far as the State is concerned?—I don't say that, because there are certain practical difficulties which cannot be got over. The only compromise you can make is the denominational system, whereby Government gives assistance to particular denominations.

The Lord Advocate.—At present the heritors who pay are not necessarily the heritors who manage?—According to the Act, I believe they are not.

I want to know whether you think there is any substantial ground for that distinction?—Of course, there cannot be any substantial ground in the circumstance that a man paying £100 Scots should be in the management, any more than another man paying less; at the same time, you might go so far down as to get among a class that would not be suitable.

Would there be any objection to those who pay being also allowed to manage?—I should hesitate about that, because I don't know how far down those who pay may come.

Mr. Cook.—Is it your opinion, practically, that you reach a greater number of children, by leaving the management of the schools as now, to the different denominations, than you would do by attempting to introduce one system which should include all denominations?—My opinion is, that you would not by any means increase the attendance by the combination into one. You have, in the first place, the great advantage of the different denominations working each in its own groove, and you have also the advantage of each looking after its own children, and endeavouring to get them brought to school.

So that your impression, on the whole, is, that under the present denominational system you practically reach more children than you would do by a general system?—That is decidedly my impression. The great difficulty is to get children to go to school, and therefore the influence of a denomination in getting them to go is very valuable.

You said you would consider the establishment of a so-called national system, which should include Presbyterians, and exclude all others, would be unjust: did your view of its injustice partly rest upon this,—that it would involve the withdrawal from these other denominations, of grants which they have been receiving under the present system for twenty years?—I did not refer to that when I spoke of the injustice, but that is certainly one element which enters into the question in a very important manner. It must also be taken into account that a vast deal has been done by different denominations in the laying out of money, which would be all swamped and destroyed by the proposed system. For example, even with reference to our Normal School, the Church has laid out upwards of £5000 since I became connected with it, and on two of the schools in my parish we laid out nearly £1000. All that would be swept away and rendered useless.

Do you think anything would be gained, in point of economy or otherwise, by

establishing a national system which should include merely Presbyterians, and continuing the present system of grants to other denominations?—I don't think anything would be gained; and I think a considerable amount of injury would be done to the Presbyterian bodies. You would be compelling them to join together and lose their distinctive character; and yet, to those denominations which chose to stand out—the Roman Catholics and others—you give the privilege of getting Privy Council grants to themselves, which would be a doubly unjust thing. Rev. Dr. Craik.

That would be attempting to have two systems: the one an imperfect national system, and the other the present denominational system?—And it would be giving these denominations a privilege that, as an Established Church, we could not have.

Lord Polwarth.—You said you thought it desirable to have a higher class of schools: have you turned your attention to how it might be possible to maintain such schools?—I don't think it could be done otherwise than by having them in some of our larger towns, and, by means of bursaries, inducing young men of talent, after undergoing an examination, to come to them. A great argument against this is, that parents are not able to support their children away from home; and one way of meeting that would be, by bursaries to be given to those who could not support themselves. There can be no doubt that the whole system of the higher education in Scotland has fallen down for want of preparatory schools for the Universities; and the consequence is that our University education is by no means what it ought to be.

Would there not be considerable difficulty in establishing such schools?—Yes.

Don't they exist to a certain extent now in our parochial schools in the considerable towns, where there are in fact two schools?—In such places as Glasgow, Perth, Dundee, and Aberdeen there are schools of that kind.

And in Dumfries, Jedburgh, and Kelso?—Yes; and in Ayr.

Are these parochial schools which are divided into two, one being a school for the higher branches, with higher fees?—My impression is that they are generally called academies, and that provision is made in them for the lower branches.

Is the head master a parochial schoolmaster?—Not always; some of them are burgh schools, and some have been founded by private bequests.

Would it not be possible to improve these, so as to establish schools of the nature which you alluded to?—I think it would be very desirable, and might be done to a large extent.

Would that tend to keep up the higher branches of education in Scotland?—I think it is impossible for one man to teach the higher and the lower branches in the same school.

Do you think that, with the present system, the lower education being required to be much more exact than formerly, it is difficult for a teacher to carry out the higher branches of classical education, as was formerly done in Scotland?—I think so. When it was formerly done, the elementary education was not sufficiently attended to.

Mr. Dunlop.—You mentioned your apprehension, that if the local board of managers differed, the minority would set up a school for themselves: did you contemplate that that school should be supported at their own expense?—I have no doubt that at first they would make the attempt.

Do you seriously apprehend that there is any probability of schools being unduly erected by private parties at their own expense?—I would apprehend that a school might be set up in opposition, and that instead of one good school, there would be two poor ones.

The one having Government support, and the other not?—Yes; they would endeavour to carry on the school, and to take away pupils from the other.

You mentioned, as one of the privileges of the Presbyteries at present, that their consent was necessary to certain complaints being lodged: are you aware that that is limited to the special cases of old age and infirmity, or incapacity and inefficiency in the teachers?—On looking at the Act, it struck me that there was a little more than that.

Mr. Davidson.—Do you not think that a system of education entirely secular would be unpopular in this country?—At present it would be unpopular with a large number of people; but there is also a considerable number who would prefer it.

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Do you think it would not be very unpopular with the general community?—It would be unpopular with the religious part of the community.

Supposing Government were to propose a system by which the religious education of those who may be called outsiders, was provided for out of the school, and at a different hour, would that be an unpopular system?—I hold that to be altogether an unworkable system.

The injustice, I suppose, would be removed?—Yes; but the thing would not work at all.

How?—Because I don't see that religious instruction can be given apart from the ordinary conduct of the school; I hold that religious instruction must mingle with all the education given in the school. Teaching is not merely making a boy read something, but it is putting it into his mind and his heart.

Is it not the fact that in the parish schools, children whose parents object to the religious instruction given are not required to be present at it?—They are present in the school while the religious instruction is being given. I am not aware that they might leave the school if they chose while the religious instruction was being given.

Mr. Dunlop.—Is not the rule laid down by your General Assembly that they may be absent?—If they are absent at the time at which certain lessons in religion are given, they are of necessity present at other times when the religious element pervades the instruction given.

Mr. Davidson.—Could they not be taught writing and arithmetic without religion?—Yes; but they could not be kept under discipline. They receive a moral training, into which religion must enter; and, practically, I have found that in some schools where the teacher affected to allow some of the children not to be taught the Catechism, they were, in point of fact, taught religion without the possibility of preventing it; for, in explaining an ordinary English lesson, the teacher could not help frequently referring to religion.

And the parents of these children made no objection?—They could not make any objection; the children would require to be taken away altogether if they objected.

Mr. Ramsay.—But the value of the religious training and instruction must depend on the personal character of the teacher?—No doubt, to a great extent; and also on the vigilant superintendence of the minister.

Sir J. Fergusson.—What is the amount of school pence paid in your parish?—It is difficult to tell that; but I know our fees are very small, probably about 3s. a quarter, or something of that kind. I may state that we have always found it better to exact a small fee than to have the children without fees; but we make the fees very low; some are as low as 2d. a week.

The Chairman.—Is there any other point which you wish to bring before the Commission?—I should only wish to say that I consider that the kind of instruction given to the students in the Normal Schools is admirably fitted to train them for their profession, and that their faculties are well exercised. It is not merely a system which gives them such education as enables them to pass an examination, but it really trains their minds. I was present the other day at one of the lessons, when the rector laid before them two or three different systems of education, and required them to give their opinion as to the best system. He told them that of course one great object was the improvement of the memory, and then he made them determine which of the systems was best fitted to improve the memory; they were asked how that was to be done, and they said it was by the system which was best fitted to awaken the attention. I mention that as a specimen, for the purpose of showing that they really go through a system of mental training.

REV. WILLIAM LEE,—*examined.*

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The Lord Advocate.—You are minister of the parish of Roxburgh?—Yes.

How long have you been so?—Twenty-one years.

You have paid some attention to the subject of education?—Yes, I have taken very great interest in my own schools; I have also for many years been a member of the General Assembly's Education Committee, and a member of the Committee on Parish Schools; and I have published one or two pamphlets on education in Scotland.

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Is your parish a rural parish?—Yes.

How many schools are in the parish?—Three; a parish school, a parochial side school taught by a female teacher, and a General Assembly's school.

Are all three aided by the Privy Council grants?—Yes.

What is the population of the parish?—1200.

Is there any Free Church school in the parish?—No, there is no other school in the parish.

Do you think there are enough to meet the wants of the population?—As far as regards the number of schools, and as far as regards the teachers, we have ample educational supply for all our wants.

Is there any deficiency in the quality or the amount of the education?—Upon the whole, the children leave school educated so far; they are all taught the elementary branches,—reading, writing, and arithmetic; and they are all taught the Catechism, and otherwise instructed in religion. At the same time, I don't say that the state of education in my parish is entirely satisfactory, and the principal reason of that is the irregular attendance of the children at the school. There is a great demand for the labour even of very young children, and it is too much the habit of the parents to remove them during the summer months for the purpose of sending them to work, or to remove them altogether at too early an age. Now, I think it is of very great importance, not only that a child should be taught to read, but that sufficient time should be allowed to deepen, as it were, the impression which it has received, in order that that impression may be permanent.

What is the average age at which they are taken away permanently from school?—Twelve. I have a class of young communicants which brings back to me, at the age of seventeen or eighteen, a number of the children who have left school many years before, and although they were all able to read intelligibly and intelligently when they left school, I too often find when they come to be examined, previous to being admitted for the first time to the sacrament, that they have not kept up their power of reading to the extent which I think desirable.

Does anything occur to you as a remedy for that state of things?—The only thing that has been suggested is an adaptation of the provision of the Factory Act to rural parishes, and I have known practical farmers in my own district who thought that this was quite practicable, *e.g.*, by having half-time schools either for all the children, or for the children above a certain age. Many practical educationists now hold that as much good is done by four hours' work at school as by eight hours, or even that more good is done in the lesser time than in the greater.

How would the parents regard a proposal for a test of that kind?—I believe the parents generally are very anxious that their children should be educated, but many of them are very poor, and find enough to do with the income that they have, so that they are very strongly tempted to remove their children from school at too early an age. I have no doubt the parents would not like any barrier thrown in the way of the children bringing gains to the house. But I think it is possible to have half-time schools, so that the children might be half the day at school and half the day at work. I have spoken to some of the farmers in my district, and they say there would be no obstacle on their part to such an arrangement. Another proposal is that they should go to school on alternate days.

Do you think that practically the withdrawal of the children from school at so early an age is a serious evil?—I think education is of comparatively no importance to the children unless they retain it, and, as I have stated, I find that they do not retain it to the extent which would be satisfactory.

I presume that if any such proposal were adopted, a modification of the Privy Council Minutes would be essential; you could not work the Revised Code on the half-day system?—Not if they insisted on the same number of attendances as at present. The Revised Code permits both the forenoon and the afternoon to be counted as separate attendances.

What is your opinion as to the comparative advantages of the Revised Code and the Old Code?—I can only speak of the Revised Code from a study of it, because it has not yet been applied in my parish.

Don't the inspectors examine under the Revised Code?—We have received notice that the next examination, which takes place in a few days, is to be conducted on the Revised Code. As far as I can judge from studying the Code, with special

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reference to the circumstances of my own parish, I think it would have a tendency to do a great deal of good, in so far as it would encourage greater attention being paid by the schoolmaster to the elementary branches, which are those branches that are most required in a parish like mine. But I may mention that the operation of the Revised Code would destroy what used to be the characteristic of the parish schools throughout Scotland, viz., that of affording the means of an elementary education to the ordinary population, and at the same time giving the opportunity to any poor man's son, who had greater abilities and greater ambition than his neighbours, in acquiring such an education as would fit him for the Universities. In many of the parish schools formerly, and even at the present time, there are carried on, within the same apartment, the merest elementary education, and also instruction in Latin and Greek. The tendency of the Revised Code is to encourage the teacher to devote himself exclusively to those branches which pay, and these are the elementary branches.

Do you consider the parish schools to be national institutions?—My understanding is that they are church schools. The old theory was that wherever there was a parish church there should be a parish school; and that theory was carried into effect, to some extent at least, by the Statutes under which the parish schools were instituted; and I think that, even under the Act of 1861, the same character continues to belong to them. At the same time, I wish distinctly to state that I have no wish that the schools should ever be considered as being exclusively for the benefit of the children of Established Church parents. I may mention that Sir J. K. Shuttleworth, speaking of the parish school system of Scotland, says: "The parochial system was originally intended to embrace all classes, and has always been conducted in so tolerant a spirit as to provide for the education of all without a violation of the rights of conscience in parent and child." I can confirm that statement from my own experience. In my own parish schools, Established Church, Free Church, United Presbyterian, Episcopalian, and even Roman Catholic children attend at this moment, and have always attended without any complaint having ever been made. With respect, indeed, to the great body of Dissenters from the Established Church, there can be no difficulty. The Catechism, taught in the parish schools, and, with the exception of the Bible, the only text-book insisted on by the Church, is a religious standard acknowledged by them all, and is taught almost as generally in the non-parochial as in the parochial schools.

Does the parochial system, as it stands at present, in your opinion, provide for the education of the whole country?—I think not.

Do you think it should be extended, or would you prefer that the denominational grants should continue?—I prefer the parochial system as it is, with the denominational grants, to any other plan that I have heard suggested.

Would you state your reason for that opinion?—I have great objections to the Privy Council system of denominational grants. In the first place, it contributes to truth and to error at the same time. It gives assistance to Romanist and Socinian schools, no less than to those schools which profess the faith of the Established Church. There is another strong objection to the system of Privy Council grants, viz., that it encourages the erection and maintenance of superfluous and competing schools. But the question is between systems, all of which are open to serious objections. The evils of the denominational system of education to which I have referred are also far deeper and wider spread than is generally borne in mind by those who bring them forward in opposition to the Privy Council Committee. Different denominations of professed Christians already exist in the country, and are already allowed to exercise liberty of conscience. Upon the whole, the denominational system of the Privy Council, regarded as a means of supplementing the parish schools, which themselves may be said to be, in one sense, denominational schools, appears to me the only system that can, in present circumstances, be acted upon, consistently, on the one hand, with the preservation of religious liberty, and, on the other hand, with the maintenance of the religious element in education. The chief objection to the actual administration of the denominational system by the Privy Council Committee, arises, I think, from the circumstance that there is a common board for England and Scotland. I think there are great difficulties in the actual administration of that system, in consequence of the ignorance of the members of the board in London as to the special circumstances of Scotland, or rather from the impossibility of laying down the same rules for the two countries. I would certainly suggest that it would be

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a vast improvement if a board, having specially in view the administration of the grants in Scotland, were established.

In connexion with that, does it occur to you that a Scotch secretary in the Privy Council department would be sufficient to accomplish that object?—I should think so.

With regard to the present superintendence of the Presbyteries over the parish schools, do you think it useful, or is it merely a form?—There are two questions there; the one is as to the superintendence of the minister of the parish. I believe that even under the Act of 1861, the minister retains his superintendence of the parish school, and I invariably make it a rule to superintend the schools in my parish. I believe that superintendence is of the very greatest practical value to the schools; although the minister and the Presbytery have certainly been deprived of all judicial and penal powers by the recent Statute. I think it of great importance that one man in every parish, and a man who is more deeply interested in the educational state of the parish than perhaps any other, should have it in his power at any time to go into the parish school to see how matters are going on. I also think it of great importance that the minister should have it in his power to superintend the religious instruction communicated in the school, and to give himself such instruction in religious knowledge as he may see to be necessary. So far, I think, the minister does retain the superintendence of the school, and I regard that superintendence as very important.

What do you say as to the superintendence of the Presbyteries?—The Presbyteries practically continue, in my part of the country, to examine the schools within their bounds. I believe their examination is so far useful, and specially that it is of the highest possible value in regard to the religious instruction conveyed in the schools.

You think it is a substantial examination, and one that enables the Presbytery to judge of the state of education in the school?—It is a perfectly *bona fide* examination in my part of the country. The examination of each school generally lasts several hours; and in parishes where there are more schools than one, the committee of Presbytery divides itself, or meets for several continuous days. I don't say that the examination by the Presbytery is the most perfect that could be devised; and I would suggest that it would be a very great matter for the interests of education that a trained inspector—such a man as the inspectors employed by the Privy Council Committee—should be conjoined with the Presbyteries in the examination of the schools. I can see no objection to such a combined examination, provided the Church retained her power of visitation and superintendence in regard to religious instruction. I can see no objection to the employment of civil functionaries in inspecting, any more than in teaching the parish schools. As far as I know, the Church of Scotland has never claimed an exclusive superintendence of the parish schools for ecclesiastical persons. Claims of that kind have been made in other Churches, or by individuals; but not, so far as I know, by the Scottish Church. Exclusive superintendence of the schools has never, at all events, been possessed or exercised in Scotland by the Church since parish schools were instituted. It is well known that the heritors of the different parishes have important duties assigned to them in the management and superintendence of parish schools. I do not therefore object on principle to Government inspection. And I believe the annual examination of parish schools by the Presbyteries would not be interfered with vexatiously or injuriously, but on the contrary would receive a valuable accession of usefulness, if conjoined with a system of inspection conducted by such men as at present hold the office of inspectors under the Committee of Council. All the schools in my own parish are under Government inspection, in consequence of the teachers being in the receipt of augmentation grants; and the result of my experience of the advantages of inspection, carried out by men of the high ability and the special training and experience which characterizes such of Her Majesty's Inspectors of Schools as I have known, is a conviction that Government inspection would be very desirable in the case of parish schools generally, not certainly in room of, but in addition to, the superintendence of the minister of the parish, and the visitation of the Presbytery.

You have said that you don't think there is any deficiency of education in your own parish, how is it in your Presbytery?—Some of the parishes in my Presbytery are so small that the one parish school serves amply for the wants of the

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population; others of them are larger, and are supplied with side chools, or schools supported by the General Assembly's Committee. Kelso is the largest town in the Presbytery, and it depends partly on the parish school, and partly on other schools, which are either adventure schools, or schools supported by endowment. But I think that all the parishes, and I am thoroughly acquainted with them, are amply supplied with schools.

What is your opinion as to the practicability or desirability of so enlarging the parochial system as to make it sufficient for the education of the country?—I believe that the present system of supplementing the parish schools by denominational grants serves the purpose in view with tolerable efficiency. We know what the operation of these grants is, and I should be very sorry to venture upon giving an opinion as to what would be the result of a scheme which has not yet been tried.

You object to a purely secular system of national education?—I would prefer a secular system to a system in which religion was permitted to be taught in the schools, without any security for the purity of the instruction thus given. I think no religion in the schools would be better than false religion. Plutarch's argument to show that atheism was less offensive to God than superstition, applies here, in my opinion. Plutarch said that he would prefer that men should say that no such person as Plutarch had ever existed, than that they should say he was unjust, cruel, and vindictive. I think it better for children that they should not be taught religion in schools at all, than that, by religious teaching being permitted, while religious government is excluded, there should be the risk of their being taught dangerous error. At the same time, I think that the introduction of a system of purely secular education would be objectionable and deplorable in any case, and that it would be unpardonable, in the circumstances in which this country is placed. If we had no provision for the education of the people in Scotland, and if, from any cause, the question were between no education and secular education, the problem would be more difficult. But to overturn a system already in existence, and upon the whole working well, in which education is communicated on Christian principles, for the purpose of a mere experiment, which might, in some respects, prove better, and might prove worse; but which would be so far a retrograde movement that it banished religion from all schools,—this would, I think, be unpardonable in a Christian nation. It would be to buy a doubtful good, at the price of a certain evil of the most momentous nature. I am aware that it is said that, even if religion were excluded from the day schools, the children would still receive that kind of instruction in the Sunday schools; and the experience of America is adduced in support of that theory. Mr. Tremenheere has, however, shown that in America this result does not in fact follow; and that, on an average, at least 10 per cent. of the day scholars in America do not attend Sabbath schools, and are not known to have any means of religious instruction provided for them. Mr. Tremenheere's general inference, from the statistics he brings forward, is as follows:—"The conclusion I arrive at from the above facts, drawn from portions of the United States having populations similar to our own, is, that inasmuch as the great majority of all classes and denominations in this country agree that no system under the sanction of and aided by the State could be consented to which did not, in some way or other, make effectual provision for religious as well as secular education, the example and experience of the United States, in so far as the localities above referred to are concerned, cannot be quoted as having fulfilled that requirement."

Are you aware that Mr. Tremenheere's pamphlet has been replied to?—I am not aware that it has been replied to on that point.

Suppose a system which would embody a new board of management, to be composed of heritors and committee of ratepayers and parents of children,—the minister of the parish not to be a member of the board *ex officio:* would this be an improvement on the present system, and work well?—My impression is that the present board works well, and is not an exclusive board. The heritors are not exclusively, nor indeed are the majority of them, members of the Established Church. I do not myself think it would be for the advantage of education to popularize the body to which is intrusted the election of the teachers and government of the schools. I have a great respect for the class of persons who are the parents of the children usually found in parish schools; but I do

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not think that they are fitted by their training, or by their habits of mind, to take the place of the heritors and ministers in the election of teachers, and in their other functions in regard to education. In my own parish, I have sometimes known the parents attempt to interfere in such matters, and the nature and alleged grounds of their interference were not such as to justify much confidence in their fitness to take the place of the persons now intrusted with the charge of the parish schools.

Then you think that even an infusion of that element would not be desirable? —I don't think that it would improve the present constitution of the board to popularize it.

Practically, don't you think it would work well enough to have a certain representation of these parties in the management?—I have seen so much evil arising from the unauthorized interference of these parties in the case of many schools,—so much harm to the teachers and to education,—that I cannot say that I think the popularizing of the board of management would be for the benefit of education. I don't look at the matter at all as regards myself, or the Church to which I belong; but, viewing it in the interests of education, I say that the parents of the children attending the parish schools have not generally that sort of training and experience which would qualify them for the management of the schools.

How do you think the heritors would look upon such a proposal?—The heritors of Scotland have had the subject frequently before them; and in 1862, when a bill, proposing a Government system of education was brought forward, a great majority of the county meetings disapproved of it; and that bill contemplated arrangements somewhat of the same nature.

You would rather go on with the present system, and improve it if you can, than attempt a national system on any footing which suggests itself to you?—Yes.

Would you hold that opinion, even supposing the parish schools were left as they are, and an attempt were made to supplement their deficiencies by a general system outside the parish schools?—I confess that I would not like to see two systems of education established in the country.

But you have now two systems; and the question is, whether, instead of the denominational system outside the parish schools, you would prefer a general system, or whether you would prefer the denominational system as it stands?—In order to answer that question, I would require to know the nature of the proposed new system.

Any system similar to what has been proposed?—I should be afraid of any of those systems that are capable of general application being established, for this reason, that the risk would be that our old system would ultimately be merged in the new system. I believe that a great number of the friends of the Established Church would be naturally jealous of any supplemental national system for that reason.

You said, I think, that religious liberty could hardly be provided for in a general system: what is your view on that subject?—What I said, I think, was that the denominational system was the only one that occurred to me in which you could combine a religious education in the schools, with an attention to the doctrine of religious liberty.

In your own parish you have Episcopalians, Free Churchmen, and Roman Catholics, all attending the parish school: do you think there is any want of attention to the principle of religious liberty in your parish?—No, I don't see that there is. The schools are conducted in such a way that the children of the parents of different denominations attend without any objection to the instruction given.

Then your parish is an example of a system of education which is not denominational but national, and which yet does not isolate the principles of religious liberty?—To a certain extent it is.

Mr. Dunlop.—As I understood, you consider the evil arising from taking the children from school at an early age, is not so much that they have not then acquired a sufficient elementary education, as that in a few years they lose it?—Yes; but I think, in order to teach the child so that he may retain his knowledge, it is not sufficient to give him the capacity of reading, writing, and counting, but it is necessary that he should attend for some years, in order to impress it on his mind.

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Then any labour test, to answer your purpose, would not be a test of the attainments of the boy at the time he began to labour, but it must be of some other character?—It has been suggested that no child under a certain age, say fourteen, should be employed in field labour, unless he is for a certain number of hours at school.

You would limit the number of hours of labour too, I suppose?—The only alternative is to take the schooling on alternate days.

Have you formed an opinion as to which plan would be preferable?—I have consulted practical men on the subject, and the alternate days is thought most convenient by farmers.

I suppose that would be better, unless the early part of the day were taken, because if the child was worn out with work, you could not teach him so easily?—No. There was one well-known practical agriculturist, who was for many years a member of my congregation, Mr. Dudgeon of Spylaw, who tried to carry out a system of evening classes, but it did not succeed: the lads were too much worn out with their day's work.

Suppose you could extend the parochial system adequately, to meet the whole wants of the population as it now exists, would that satisfy your views?—It would, if the schools were to be established on the same principle as at present.

You think religious teaching would be adequately secured in that way?—I think so; but I cannot say that I consider such an extension possible.

But you think the religious teaching would be adequately secured?—I think so.

What part of the existing system is it on which you rely for the religious teaching: is it the election of the schoolmaster or the superintendence of the minister?—The superintendence of the minister and the visitation of the Presbytery. Of course, I don't think that the security is so good now as it was.

In what way does the visitation of the Presbytery operate?—There is an indirect influence derived from it, and they have the power of complaint. I am quite aware that they have no judicial powers; but I think the superintendence of the parish minister is much the best security we at present possess. It is of great use for the ordinary education, and above all, for the religious education.

You allude to the minister taking on himself occasionally the giving of religious teaching: do you think you are entitled to do that?—Decidedly. I always understood that that was part of the superintendence reserved to us, and I always act on it.

Then you don't attach the chief importance to the choice of the teacher?—No.

You don't think the character of the teacher is so important as the checks upon him?—I think the character of the teacher is important.

But not so important as the checks you apply to him?—No.

Mr. Ramsay.—You regard the superintendence of the minister and the Presbytery as the best security for religious instruction: do you consider that the appointment of the parish minister as an *ex officio* elector of the teacher of any consequence?—There is no man more interested in the education of most parishes than the parish minister, and none more competent to look after it. I don't know who would do so if the parish minister were excluded.

My question has reference solely to the election of the teacher: do you think it important that the minister's right in that respect should be preserved?—Yes, on practical grounds.

Do you think the character of the teacher would be at all changed, supposing the right of election was reserved exclusively to the heritors?—I would have no personal objection to that, but I think it would not be for the interest of education.

How would it affect it injuriously?—Because, I think, in most parishes, no man is so capable of taking an active part in the election of the schoolmaster as the parish minister.

You don't think it would be sufficient to give him the right of visiting the school and the power of complaining?—I think it of the greatest importance, on many grounds, that he should continue to be an elector.

Mr. Mitchell.—You stated that if a general system were to be instituted outside the parish schools, you would be afraid that ultimately the parish schools would be merged in it: what are your reasons for that opinion?—I form that conclusion from the tendency of legislation. I don't think it would follow upon intelligent grounds, or because there was any reason to complain of the present

system; but two general systems could not long subsist side by side, and the less popular would, I think, succumb to the other. Rev. Wm. Lee.

Have you any idea of the number of children in Scotland between five and fifteen years of age?—No.

How many, do you think, may be in attendance in the parish schools in Scotland?—I am not aware; but in my own parish it is about one-fifth of the population.

But there is a large number of children not accommodated by the existing parish schools?—I believe there is a large number that are not educated, just as there are in America. The numbers in New York and Boston, I believe, are as great in proportion as in London or Glasgow; so that it is not the system alone that prevents the education of the people.

Sir J. Fergusson.—When you said that the character of the teacher was a less valuable security for religious education than the checks upon him, were you considering that the character of the teacher is, to a great extent, formed after he is appointed to the school?—That may be. You know what the teacher is when you appoint him; but these are the only securities you have for his continuing to be worthy of confidence. I may say that I never thought the tests which formerly existed were adequate security, and I don't know that the securities we now possess are adequate either; but that some security should be afforded for the purity of the religious teaching is of the greatest importance.

But the existing test of the Bible and Shorter Catechism, as the standard of teaching, would remain in force whether there was an infusion of the popular element into the elective body or not?—I should not advise that the Bible and Shorter Catechism should be taught in school, unless there was some security for the mode in which they were taught.

Are there any points in the working of the Old Code which, in your opinion, pressed hardly upon schools?—No, I don't think there is anything that I could particularize. I think the New Code is, to some extent, an improvement on the Old.

Was not the requirement of teaching sewing sometimes found impracticable in country places?—We have sewing in all our schools. It is obligatory under the New Code, no less than under the Old.

Is it not sometimes found extremely difficult to carry out that requirement?—I have found the utmost difficulty as to that in my own parish. There is one school in my parish, in a poor locality, where it was very difficult to obtain a salary for a female teacher to teach sewing; and it was on the point of being abandoned altogether, in consequence of the Privy Council refusing to continue its assistance, except upon that condition.

So that it is possible that the rigid exaction of conditions of that kind might cause the withdrawal of a grant which was very much needed for the support of education?—Certainly; I found that the case. We were on the point of losing a school where reading, writing, and scriptural knowledge were given, because we could not add to these instruction in sewing.

Lord Jerviswoode.—Has the tendency in your parish, of late years, to employ young children increased?—Farmers don't care about employing very young children; it is more the parents that are anxious to have them employed.

Has that increased?—I think it has. Very often during the summer months, children of eleven and twelve years of age are employed in the fields, and the average age at which they leave school in my parish is twelve.

You know the parish school at Kelso?—Yes.

Is it not a species of academy?—The position of Kelso school is very curious. It was originally the parish school; but seventy or eighty years ago, I believe, it was divided by the heritors into two schools,—the parochial teacher teaching the classics and another English. The arrangement is now somewhat different, but the result has been, that the parochial salary has been diverted from its proper object.

Do you know the school in Jedburgh?—Yes; there is a parish school there, which was formerly supported partly by the burgh. It is now exclusively supported by the heritors; but in that school the rudiments of English and classical education are given within the same walls by the same master. The classical branches, however, are not taught to the same extent as they were formerly.

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Properly speaking, Kelso has been an academy for a great number of years,—not a parish school.

The Lord Advocate.—To what do you attribute the falling off of the classical instruction?—Partly to the provision of other schools, and partly also to the fact that a great number of parents of the middle classes don't encourage their children being instructed in classics, as they used to do.

Mr. Cook.—The children of Dissenters in your parish attend your schools without objection?—Yes.

Suppose the board of management was popularized by placing in it representative members of heads of families of all denominations in the parish, your school could not be more catholic, in the way of including children of all denominations, than it is now?—Certainly not. So far it would be less catholic, that I myself would not be a member of such a board, because I would decline the responsibility, without the power of doing any good.

So far as you have observed, in your own parish, or in your Presbytery, is there amongst any class of Dissenters or otherwise, any great wish for a change in the present system of the electoral or managing board?—I don't think it. I never heard any complaint as to the mode of election. I have heard complaints made against the schoolmasters sometimes, and they were very often most unreasonable. There have been one or two cases in a school in my parish where excellent schoolmasters were driven away from their places by the manner in which they were interfered with by the villagers.

On what were these complaints founded?—They were often frivolous and contradictory. They related to the mode of teaching, and the discipline of the school; and had no reference to religious differences.

Do you think these complaints could be prevented by a popular representation in the board of management?—I don't think so; I think that would only introduce into the board the disunion which exists sometimes in the parish.

How many heritors are there in your parish?—Five; there is also one small proprietor without a valued rent.

All the heritors who pay schoolmaster's salary are heritors having a valued rent?—Yes: the only unqualified heritor, who has a public-house, which is his own property, does not pay schoolmaster's salary.

Mr. Black.—Is it your opinion that the present system of education, supplemented by Privy Council grants, is the best system we can have?—I think it works very well, upon the whole, so far as I can judge. I don't know that it is the best we could have, but it is the best that has been proposed.

You said that one objection to the present system was, that it encourages superfluous schools: is there not this evil attending it, that it does not give schools where they are wanted?—That may be an evil.

You know that the grant is only given on condition that the locality raises a certain sum; so that, where the population is poor, that sum cannot be raised, even where the education is really wanted?—I am aware of that. I don't say the Privy Council system is free from objection.

You have said that you would rather have a system of secular education in a school than merely permit the teachers to give religious instruction?—What I say is, that I would prefer a system of secular education to a system in which instruction in religion was permitted, without any security for the character of the religious instruction. Religious education, without religious government, appears to me to be very dangerous.

Then you are satisfied with the religious systems which prevail in the various bodies which receive grants?—No; personally I protest against them all; as far as any of these bodies differ from me, I think they are wrong; but it is not I who administer the grants.

Then you must protest against a very large portion of the present system of education?—We have already conceded the point of tolerating denominations that we believe in our consciences to be teaching error. The only consistent mode in which we could carry out the principle to which you refer would be, not only to refuse to endow any school in which a system was taught which we did not approve of, but to refuse to tolerate any denomination that we did not approve of.

You think that Government is warranted to commit education to other denominations as well as to the Established Church?—Personally, I protest against the endowment of error, but I am not bound to judge for Government.

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Do you consider all error, except that which is in conformity with the teaching of the Established Church?—So far as others differ from me, I consider them in error certainly. I don't mean to say that the errors of all who differ from me are fatal; they may be of very little importance.

Lord Polwarth.—You object to the schools being managed by mixed denominations?—I object to a system of education in which various bodies of professing Christians were conjoined in the management, on the ground that it would cause a constant conflict, and would not work. If you were to admit mixed denominations in the government of the schools, you could not exclude Romanists or Socinians. I think the practical results would be directly injurious to the religious instruction.

That is the reason why you wish to leave the religious education under the management of the clergyman of the parish?—I consider that if there is to be any security for the religious instruction of the school, it is better to intrust the education to one body, and that body, I think, is the Established Church. If Government have not confidence in those who now constitute the Established Church, I think it would be their duty to select some other body, to whom they might commit somewhat similar functions.

You think that, in general, the clergyman is the person in whom the great majority of the people will have confidence?—I know that in my own part of the country, the minister of the parish is regarded as such by all denominations. As a rule he is practically recognised by all denominations in his parish as their minister; in case of sickness or trouble of any kind, they all think they have a right to send for him for the purpose of religious consolation. I mention that to show, that practically the minister being intrusted with the management of the schools, is not likely to be regarded with jealousy by those parishioners who do not belong to the Established Church.

Don't you consider it of great importance that the minister should have a voice in the election of the schoolmaster, and is he not generally consulted by the heritors?—I think that is of great importance; and in many cases the minister is the only person who can be intrusted with making the necessary inquiries as to a teacher, or who is willing to undertake this duty.

We are told that the elementary branches are much more studied, and carried out with greater exactness than formerly?—I think so.

To the detriment of the classics?—That is not entirely the effect of any change of system. I don't think there is the same desire among the generality of the people for a classical education; but where there is the desire, I should say the same thing occurs as formerly, and a boy may still follow out a classical education in any of our parish schools. I have known many such cases in my parish.

And the schoolmasters are equal to that?—The schoolmasters we have had have always been able to teach Latin and Greek.

Is there the same demand on the part of the middle classes for Latin and Greek that there was?—I believe that even thirty or forty years ago there was a much greater number of Latin scholars than there are now.

Then the schools are of a more practical nature than they were?—Yes; the instruction is now much more elementary; and it is for the advantage of the great mass of the people that it should be so.

Do you think it of importance to establish schools of a higher nature throughout the country?—Of great importance. I don't believe it is practicable, as a rule, to carry on an elementary and an advanced education in the same building by the same teacher.

Not as was done in Kelso?—In Kelso that has not been done; there has been a separation between the classical department and the elementary department for many years. The parish schoolmaster's salary is given to the rector of a Grammar school or academy, and so is truly diverted from the purpose for which it was intended. I have a list of the fees exigible by the parish schoolmaster of Kelso, in the department which he himself teaches, to show that these are not the parish school fees.

Would you explain the nature of the school at Kelso?—It is a parish school, and has the parish school salary. All the different branches were then taught in one apartment by one man, who gave the ordinary parochial school education. But about seventy years ago, Dr. Dymock, who afterwards became master of the High School in Glasgow, was appointed to Kelso, and got the heritors to

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agree to an arrangement by which an English school was established to relieve him from the children who were learning the elementary branches, and he devoted himself to give classical education in what was then called the Latin School. That was continued till within the last ten or twelve years, when both departments were again placed in the hands of one man; but the teacher who now holds the position of schoolmaster of Kelso, is in fact, like his predecessors, the rector of an academy or grammar-school, and he employs an assistant to teach what is, practically speaking, the parish school. I have here a note of the fees exacted by the parish schoolmaster in the department which he himself teaches. I find £1, 3s. 6d. a quarter as the charge for one boy attending several classes; another boy, for English, writing, and arithmetic, only pays 10s. 6d. per quarter. In the English department, the ordinary parish school fees are the rule at this moment.

There are other schools in Kelso for the lower classes?—There is the Roxburgh school, endowed by the Roxburghe family; and there is the Maxwellheugh school, endowed by Sir George Douglas, with some aid, I believe, from another of the heritors. There are also one or two adventure schools. The school supported by Sir George Douglas, at Maxwellheugh, is a very large school, and is very largely attended.

The Jedburgh school is of the same nature as the one you have explained, is it not?—It was originally both a grammar school and a parish school, and it was supported by contributions both from the burgh and the parish; but since the bankruptcy of the burgh its maintenance has fallen entirely upon the heritors.

The Lord Advocate.—What are the fees in the parish schools generally?—2s. 6d. for reading, 6d. more for writing, and 6d. more for arithmetic.

And most of the parents pay these fees?—Most of them; but I think the heritors ought to avail themselves more frequently than they do, of their power of requiring the schoolmaster to give free schooling to those children whose parents are not able to support them at school. There are a great many cases in my parish where a poor man has four or five children ready for school at the same time, but he is not able to pay for them all, and gives them their education time about; he sends two to school for the winter months, and takes them away, and sends the other two for the summer months.

You would not consider the extension of pauper or free schooling desirable to any great extent?—No; the heritors sometimes lay down a rule that where three children are paid for at the same time, others of the same family should be admitted free; but I believe that provision of the Statute of Geo. III. is very seldom acted upon.

Mr. Dunlop.—The Parochial Board have the same power, to a certain extent?—Our Parochial Board always pays for the children of other parishes, and charges them to these parishes; and it is charged in the same way by others.

I think you said that the Act of 1861 had not produced the slightest practical change?—Not in my own parish.

But generally?—Not so far as I know.

Do you mean to say that the provision which allows a schoolmaster belonging to another denomination than the Established Church to be elected, is a dead letter?—No; I myself recommended the election of a United Presbyterian schoolmistress to a school in my parish lately.

Lord Polwarth.—Are the provisions as to aged teachers taken advantage of?—Yes. Several schoolmasters, who had been for long disqualified for duty, immediately on the passing of the Act, took their superannuation. I should like to mention that one of the greatest practical difficulties in the education of the people in my part of the country arises from the want of a uniform system of school-books. The agricultural population of a parish like mine are very migratory. Last year nearly forty children in the principal parish school in my parish were removed at Whitsunday, owing to their parents going to other parishes. The result of the want of uniformity in the school-books is, that the expense of education is enormously increased; they are often obliged to get new books for every new school, which in many cases they find it impossible to do.

Mr. Dunlop.—Is the choice of books left to the schoolmasters, or do the heritors regulate that?—The heritors regulate the branches, but not the books. In a report to my Presbytery recently on this subject, I quoted some remarks by Mr. Arnold, one of Her Majesty's Inspectors of Schools, a few years ago. He

said: "I am glad to see the subject of school-books receiving increased attention. The diversities of these are at present truly embarrassing. Almost every educational society has its own school-books; these are by no means universally adopted by the schools in connexion with it, and a recognised text-book on any subject is nowhere to be found. To this state of things your Lordships alone can supply a remedy. The inconvenience now arising from it is extreme; and in subjects where classification and arrangement are of peculiar importance—as in grammar—the multitude of text-books, all following a different system, is of serious prejudice to the learner. I really think that it matters little, comparatively, what the text-book is, so that it be uniformly adopted. Some of the books now in use are, no doubt, more perfect than others, but almost any one of those with which I am acquainted is adequate for the purpose." I recommended to the heritors in my parish that they should attempt the plan of providing the school-books, and lending them to the children; that plan was tried, but it did not work, because the books were lost. Rev Wm. Lee.

Lord Polwarth.—Does the annual removing of the people in any way affect the Revised Code?—Under the present administration it would affect it most materially. In my own parish, I got notice lately that the inspector of schools would come to examine the children on 1st December; he only examines those who have been one hundred days at school; the result in my parish school, where there were between ninety and one hundred children in attendance, was that only thirty of these fulfilled the conditions imposed; so that the schoolmaster would be deprived of all benefit from the other two-thirds. The reason of that is, that a great number of the parents of the children have changed their parish at Whitsunday, and between that and December there is not long enough time to fulfil the conditions of the Privy Council. And another great evil which we suffer from the migratory habits of the people is, that those who do come to the parish at Whitsunday, very seldom send their children to school till after the vacation.

The Lord Advocate.—Whether would you prefer the Old Code or the Revised Code?—I would prefer the New Code. The particular objection which I have stated to it is capable of removal. If the inspector were so to arrange his visits, in the case of a parish like mine, as to come a short time before Whitsunday, instead of a short time after Martinmas, he would find the children in a different condition.

Saturday, 3d December 1864.

MR. DUNLOP IN THE CHAIR.

REV. MR. NIXON,—*examined.*

The Chairman.—You are convener of the Free Church Education Committee?—Yes. Rev. Mr. Nixon.

How long have you been so?—Two years.

Have you had any other connexion with schools in Scotland?—Soon after being settled as a minister in Montrose, above thirty years ago, I observed a great want of a good school in which an education might be obtained equal to what was given in an efficient parish school, and at similar rates, and I got one erected, which has ever since been numerously attended. I then succeeded in getting a large girls' school erected for teaching sewing and knitting, and Scripture knowledge; and it has also been very numerously attended ever since, and exceedingly useful. I subsequently took the chief part in getting large and extensive mission schools provided for a destitute district of the town, in which a large number of the poorest children are educated.

What is your view of the extent of the existing requirements of that portion of the community for whom the parish schools were originally set on foot?—Such conflicting statements are being made with reference to the deficiency of school accommodation, that a great service would be done by ascertaining the exact

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amount of it. I believe that the deficiency in that respect is often greatly overstated. In the town where I reside, a town of 15,000 inhabitants, there is enough of school accommodation for all the children. Practical educationists in other towns and populous districts have made similar statements with regard to their localities. No doubt, in large towns like Glasgow and Dundee, and in other manufacturing and mining districts, there is still a lack of school buildings and teachers. But I do not believe that the want exists to the extent alleged.

Do you know anything as to the state of the rural parishes?—No, I cannot speak definitely as to them.

Do you deem the combined operation of the existing parochial schools, and of the system of grants in aid, sufficient to meet existing requirements; if not, in what respects are they defective?—Were the present parochial schools placed under a somewhat improved management, and were the regulations for working the Revised Code so altered as to adapt it to Scotland, I believe that the combined operation of the systems would prove better fitted than any other system yet proposed to provide for the proper education of the masses. When I speak of an improved management of the parochial schools, what I mean is this, that in reference to them, the Church of Scotland, to which they owe their existence, and, mainly, any prosperity which they had, is now to be found in the various sections into which it has been divided; and were these sections admitted to their proper place, and allowed to share on equal terms in the management of the schools, they would become much more efficient for the purposes for which they were set up.

Do you include in the matters which you think it desirable to improve, the appointment of the master?—It is difficult for me to give an opinion about the present mode of appointing the master; I would have preferred the old mode, provided the various Churches had been combined. But I would have the schools open to all teachers in the country belonging to the Established Church, the Free Church, and the United Presbyterian Church, if they agreed to teach the Bible and Shorter Catechism.

Does not the Privy Council system of grants in aid tend to the establishment of schools where they are not required for the educational wants of the district?—After the Disruption of 1843, amidst the rivalry for the time being excited, and under the Old Code, which assigned salaries to teachers irrespective of the number of scholars, cases of this character may have occurred. But cases alleged to be of this character were really, in more or fewer instances, cases in which the previously existing provision for education was so utterly inefficient, that the additional school was indispensable for the time being, if anything like a proper education was to be given at all. Moreover, wherever the older and better-endowed school that was formerly useless becomes efficiently supplied, and is sufficient for the locality, the newer school is as quickly as possible being turned into a girls' school, where it is uniformly required in that character to meet the necessities of the district. In a late report to Government, Mr. Middleton, one of the inspectors connected with the Established Church, and whose field of inspection is the northern part of Scotland, where this evil would exist, if it existed anywhere, says that "the number of boys' schools" in connexion with the Free Church, "where they are not required, is by no means so great as has been sometimes asserted;" and that in the view of their appropriation as girls' schools, when not otherwise required, "he can scarcely remember a Free Church building that a Commission would find superfluous." But if, under the Old Code, the evil now referred to has been more imaginary than real, under the New Code it will disappear. For as under it no salaries are given, but only pupils properly taught are paid for, schools will not be provided except there are scholars to fill them.

Is the Privy Council system overtaking, or is it calculated to overtake, Highland and remote districts?—Considering the number of small schools requiring to be maintained in those regions to meet the requirements of the scattered population, I cannot imagine any system by which Government could so economically and effectively aid in meeting these requirements, as that of a capitation grant, paying a proper proportion of the remuneration that is given for every child whose proper instruction is ascertained by Government inspection.

Is the Privy Council system overtaking, or calculated to overtake, populous districts in large towns?—Notwithstanding the utter absence of any proper pro-

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vision under the Old Code for the poorer classes, and in spite of the obstacles to its success, in continual operation otherwise, a mighty advance has been made in meeting the educational wants in populous places. The grants in aid have called forth a large degree of liberality towards taking advantage of them; and a great and manifest success has attended the system of grants in aid, in the way both of multiplying the means of education, and of improving its character. At the same time, the system of grants in aid has never had a fair trial. It has never been allowed to prove its powers and capabilities. Throughout its history there have been kept up continual agitations in favour of a great many diverse measures, each being recommended as a more national system. Amidst these agitations, our people have been kept continually on the outlook for a measure that would set existing schools, as at present managed, aside. The existing system has thus been prevented utterly from proving its efficiency and worth. It was to be no more expected that in such circumstances it would attain the character it was capable of acquiring, than that a tenant would keep a house in constant and thorough repair, when he was expecting every month to find an order issued for his immediate removal from it, or for its actual demolition. Then, too, it is to be remembered that the Old Code was pervaded by the pernicious principle of giving help only to those who could help themselves. It did not profess, except to a limited extent, to provide for the poor and destitute population. But under the Revised Code, aid can be obtained to schools in the poorest localities, so that it will give a fresh impulse to their multiplication and efficiency in the hands of Christian Churches and ministers, in their efforts to evangelize and reclaim the sunken population of our land. Towards reclaiming either the old or young of such a population, only the Christian agency of an evangelistic mission will suffice. A Christian teacher of the young is an indispensable part of it. A mere secular teacher, however well equipped, would be of no use, would be as likely to prove a hindrance as a help. The inseparable connexion of Church and school, with all its appliances, can alone serve, under God, any good purpose, amidst such a population. Only let the expectation of any general measure be for the present annihilated in the public mind; let it be seen that we are thrown upon the existing system of grants in aid, and I for one see no reason to doubt that Churches, ministers, proprietors of public works, and truly patriotic men of all classes, would be stirred up to contribute their money, and to combine their exertions more and more to extend the common schools, and to improve both the education given in them, and the position of the teachers. If any system of education is to tell on the reclamation of the sunken masses, it must be one that is thus under the control of Churches and of earnest Christian men. To plant secularly well-equipped and well-sustained school premises among such a population, would be of no more use than to plant them in a wilderness. They would remain empty, with uneducated youth all around. A Christian mission, with its schools and teachers, as well as other instrumentalities, and such a mission backed by the Church that institutes and is answerable for it, is the only agency for such a population. Even that, I fear, would in too many instances fail of speedily enough remedying the evil. Schools are even now found empty in the midst of an untaught population. This is an evil, however, which would greatly increase if the schools were secularized, and severed from Churches. But it is great enough already to have, if possible, a remedy applied to it, even though the remedy should be of a somewhat stringent character. And I believe that it might be met, and ought to be met, by a Parliamentary enactment, such as that recommended by the late Sir John Kincaid, providing, that after two or three years from the passing of the Act, the young of a certain age shall not be admitted to employment at public works, without being certified by a registered teacher as having attained a certain amount of education. The presence and labours of Christian ministers, of Christian men, and of Christian teachers, in the midst of such a population, would be unspeakably beneficial, if not absolutely needful, to make such an Act go down among the population concerned, as well as to prepare them to meet its requirements. But thus carried out, it would effect a great and blessed revolution in the educational state of the common people, to the inexpressible advantage and satisfaction of the employers of labour, as well as to the still greater advantage of the people themselves, and of the country that contains them.

Does the present system of grants in aid prove denominational, in the sense of confining the education in the schools to the children belonging to the denomina-

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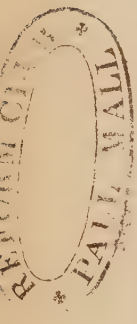
tion to which the school is attached?—In the cases of Roman Catholic and Episcopalian schools this must be the case, except where proselytes are made, as they mingle up instruction in their distinctive principles with common-school education. But Presbyterian denominations teach the Shorter Catechism, containing only the general views of doctrine embraced by the Reformed Churches generally. The only distinction exhibited, is when the education given is of a more earnest and effective character. I have three common schools connected with my congregation, in which from 600 to 700 day and evening scholars are taught, the majority of whom belong to other communions than our Free Church.



Are you not aware of any other plan, of a more uniform and national character, based upon the extension of the existing parochial system, or otherwise, and better fitted to overtake the educational wants of the country, that could be substituted for the Privy Council grants?—As the parochial system was set up by the Church of Scotland, and owed, I think, most of its virtue to its connexion with the Church, and as that Church is now divided into various sections, had they been combined in the management of all the old parish schools, and of all the additional ones required, that might have proved the best way. But the Act of 1861 has severed the old connexion of church and school, parish ministers being, unjustly to all others—and, I presume, from necessity rather than from choice, and probably only for a time—assigned the position which they hold under that Act, while, of course, they and all ministers would be reduced to the position of mere citizens, in relation to all the new schools that might be placed under that system. I would anticipate little good and much evil from any national system based on the principle of the separation of church and school. It deprives of its place, one—and that the most important—of the three great parties, the State, the Parentage, and the Church, which have their inalienable rights, and their perpetual obligations, respectively, in connexion with education. It ignores the Church, which God himself has constituted the pillar and ground of the truth, and which must have a controlling power over the education of the young, if it is to secure their godly upbringing. It thus takes away the chief security for the personal piety of the teachers, and the proper religious instruction of the scholars. The local managers under such a system will too generally answer to the description given some years ago of "local boards," in an article on Sanitary Reform, in the *Edinburgh Review*. Says the reviewer: "It is, in truth, a fond hallucination that local elective bodies are now practically responsible to their fellow-citizens, whose money they dispose of, and whose service they profess to have at heart. No people, we verily believe, having the interests of their fellow-creatures in their hands, are generally more callous, more confident in their official station, more scornful of valuable counsel, and less amenable to ministerial or legal responsibility, than the great majority of these elective bodies. We fear, indeed, that there are very few cases in which the constituencies take a sufficiently active interest as vacancies occur, unless that some accident surrounds the election with a partisan or a personal excitement. There is, accordingly, little scrutiny into the character and motives of the individuals who desire to become members of them; and the whole management of their often very important concerns, is apt to fall into the hands of men neither respected by nor known to the people, of whom, notwithstanding, they are called to be the representatives. And we think we can explain the cause of this. Even in this country, where public virtue is at a higher point, and where there is a greater willingness than in most others to make personal sacrifices for the general interest, there is only a percentage of available and really valuable gratuitous services ready to be given, by respectable persons, to the public. But that limited fund of service has, of late years, been very largely drawn upon by railway and other joint-stock companies, and, of course, there is a comparatively smaller quantity of it now left for purposes purely municipal. The constituencies, in short, do not generally bestir themselves to look out for good men to fill these offices, and if they were looked for, they would not now be found in sufficient numbers for purely gratuitous services." Ministers, no doubt, would be more or less often elected members of such local boards for education. But the bulk of them, especially in more populous districts, would soon come to be members that cared little, and did less, for such an education as alone would satisfy the conscience of earnest Churches and of earnest Christian men. The unscrupulous politicians of each small community would soon be the ruling spirits at many of these boards. When men of

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the most conflicting religious sentiments were thrown together in the same boards, prevailing jealousies would paralyse the best friends of a right education among them. Some would be for having religion taught, others for having it excluded. Some would be for having one degree or kind of religion in the schools, others for having a different degree or kind of it. The actual parents of the children concerned would often be unworthy, indisposed, or unable to cause their voice to be heard. Personally worthy people would be misled, deceived, outwitted continually by the mischief-making, loose-principled, irreligious, and yet pretendedly patriotic characters that so often carry everything before them at public meetings and local boards. Ignorant, careless, and profligate parents, of whom there are such numbers, would be at the beck of such leaders. Low rates and cheap education would come to be the watchwords at election times, and at ordinary meetings. The teachers that had to please such boards would soon come to be too like their masters; and the education which they imparted would be too like themselves. The true friends of a proper Christian education, and of the proper position of teachers, would be driven to set up schools outside of the established system, on the right hand and on the left. And, ere long, the dissenting schools would bear no small proportion to those on which, by Act of Parliament, all public money for education was being exclusively and unworthily expended. We are, indeed, often reminded that in existing schools, under lay or miscellaneous management, the teachers appointed to them are of as high a character as any whose appointment is controlled by our Churches or their office-bearers. But such as argue thus, forget that the position of office-bearers and Churches in the management of the great bulk of the public schools in Scotland, give a tone to the management and character of other schools. Let the schools throughout the country become generally freed from Church control, and be placed under secular management, and, so far as I can judge from the nature of the case, and from what has happened in other lands, common-school education will deteriorate, until we are forced to retrace our steps, and re-establish that connexion of the common schools with the Churches, which many are at present so ready to abandon. Taking that view of the matter, I do not think that any so-called national system could be substituted with advantage for the Privy Council grants. I am forced to this conclusion also, by looking at the religious question as between those who, like myself, hold Establishment views, and those who hold the principle of Voluntaryism. According to the latter principle, civil government has no right to interfere with religion, in the way of either prohibiting or enjoining it. But it would be by authority derived from Parliament alone, that local educational boards prohibited in one case, or enjoined in another case, the giving of religious instruction in school. Then, suppose a bare majority of a board, while perhaps representing the lesser number of the young concerned, chose to arrange for a kind of religious instruction which was utterly opposed to the convictions of the minority of the board, who, at the same time, represented really the majority of the young to be educated, the minority would have to pay, what would be virtually an annuity tax, for a kind of teaching against which their consciences revolted; and would be refused from the public funds, to which they had to contribute their share, all assistance towards the support of the schools, which they at the same time had to provide for the education for the larger and poorer half of the children concerned. Again, if a majority of a board, while representing only the smaller half of the population, chose to exclude right religious instruction from the schools, the consciences of the minority might be not less grievously offended: and, though paying the public tax for education, and seeing it thus abused, they would have, unaided, to provide in addition, in dissenting schools for the right education of the larger half of the young. The only way of solving this vexed question, seems to me to be that which, with a slight alteration on the present working of the system, is afforded by the system of grants in aid. The whole minutes of Council, and the actings of Government inspectors, prove that the great object of Government is to ascertain and pay for good secular instruction in schools. Now, if only the question about religion, which is, I understand, placed in abeyance when conscience is pleaded, were only dropped altogether, the present system would be as free from mingling up the authority of Government with religion in schools as the extremest Voluntary could wish. We should then have Government contributing its grants for secular instruction; the Churches contributing their funds and efforts and superintendence to secure a sound religious, as well

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as a sound secular education: and we should have the parents contributing fees to compensate for both kinds of instruction to their children. A short time before his death, Dr. Chalmers suggested this plan, when he suggested that Government, in present circumstances, should let religion alone; for, in making that suggestion, he viewed the bulk of the schools as in the hands of Churches, and so still possessed of the best security for having religion to pervade them. But to claim him as countenancing a plan under which Churches and their office-bearers would be deprived of all authority to secure the proper religious training of the young—and local boards would have the power to dispose of religion as they saw fit—is to seek shelter under his great name for a scheme, which, if we may judge from his whole life, he would have regarded and treated with utter repugnance.

State your views of the operations of the existing Privy Council system in Scotland on the elementary schools, the higher branches, and the training of teachers in Normal Schools.—1*st*, *As to the elementary schools.*—The system has contributed to cause a very large increase in the number of the schools; but it has contributed equally to improve the quality of the education given in them, and in other schools throughout the country. Since the introduction of the training of teachers in Normal Schools, of the certification of teachers, of the allowances to pupil-teachers, and of the grants in aid to augment the salaries of schoolmasters, a great revolution has taken place in the professional fitness for their work of a vast number of teachers in our common schools, so far as concerns their giving instruction in the mere elementary branches. And that change for the better has taken place not only in certificated teachers, but in multitudes of non-certificated teachers of private and adventure schools. The dame-schools, and others of similar character, that formerly abounded everywhere, have nearly disappeared from the land. And the general character of common-school education, so far as the mere elementary branches are concerned, has greatly risen over Scotland, as it will, I believe, continue to rise, unless some adverse arrangements are made which shall drive off the field those who have been hitherto the best friends of education. 2*d*, *As to the higher branches of education.*—They have manifestly suffered an injurious depression in connexion with the schools under the existing system, as they do not require to be taught in these schools, and the teachers do not require to be capable of teaching them. And one thing and another have hitherto prevented the Churches, and others concerned, from making the exertions which they are bound and able, and would, I think, be found willing to make, perhaps in connexion with some slight aid and stimulus from Government, to supply the deficiency. 3*d*, *As to the training of teachers in Normal Schools.*—I have only at present to remark—(1.) That it has been of the last importance towards qualifying the bulk of them for the chief part of their work—the teaching of the elementary branches. (2.) While it will naturally be difficult to obtain annually in subscriptions any serious part of the funds required to uphold them, considering the demands made upon our people for aid to the common and local schools, the importance of maintaining the Normal Schools, in order to the right training of teachers is such that, under due checks against improper expenditure, Government would do well to bear the burden of their maintenance. (3.) A better arranged limitation of the number of pupil-teachers, and of students at the Normal Schools, than formerly under the existing system, might still furnish a sufficient number of teachers, and save a considerable amount of money.

State the probable effect of the Revised Code on the above three heads.—1*st*, *Elementary schools.*—While preferring the principle of a capitation grant to everything else that has been proposed, and seems practicable, I do not see how it can be carried out, unless the regulations connected with it are greatly altered, so far as Scotland is concerned. It withdraws all payment for pupils after they have passed the proposed standards of examination, and thus discourages attendance at school, at an age, and at that stage of progress, when it is so important, in our view, to encourage the continued attendance of the young at school. The accidental or necessary absence of pupils from school on the particular day of the inspector's visit, is made the ground of refusing to the teacher all remuneration for their training, however successful throughout the year, while vindictive parents have it in their power to inflict on the best of teachers, for their very fidelity, the heaviest wrong. An instance of that happened within my own knowledge the other day. It makes such a distinction between pupils who get

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grants for their poverty, and those who do not, as is opposed to one of the most essential and valuable characteristics of our common school-education, that of pupils of various classes getting their education together, and on the same terms. Still the Revised Code, while saving money by paying only for results, would secure for the first time to us the unspeakable advantage of getting certificated teachers, and grants in aid for missionary schools in destitute districts that were practically excluded from all assistance before. 2*d*, *On the higher branches.*—The general educational system of Scotland contemplated, and so far actually realized, a gradation of schools, by which ingenuous youth might have it in their power to rise step by step to the possession of all the learning which our national Universities could furnish. Now the intermediate seminaries have not kept pace with the common schools. And I for one do not see how they are to be provided, either by Parliamentary grants, or by local taxation. But if only these agitations about education were at an end, and people were in circumstances calmly and deliberately to consider the necessities of the case, and their duties, I would not despair of private benefactions being obtained, sufficient, in connexion with slightly stimulating aid from Government, to raise and keep up our whole educational system. Let the Revised Code be re-revised, and adapted to our country. Let the whole expense of our Normal Schools, duly checked, be borne by Government. In the absence of those rich endowments for a higher education, which are found over all England, let the Government arrange to pay a proportion of the salaries of the rectors of academies in towns of limited extent, where the number of pupils receiving a classical education does not afford fees to remunerate the rectors. And, considering the interest which the different sections of the Presbyterian Church have in keeping up an advanced system of education, for the sake of supplying the ministry, as well as otherwise, I believe that the efforts of office-bearers and members of the Presbyterian Churches would furnish funds for securing teachers in many of the common schools capable of teaching the higher branches, and also for keeping in a state of efficiency a set of middle schools all over the land, so as to connect the common schools with the Colleges, and enable gifted youth from all quarters of the kingdom, and from the humblest cottages, to find their way upward to the highest learning which the Colleges afford.

Mr. Ramsay.—Do you disapprove of any change on the present system, except those which you have suggested on the parish schools?—I cannot see that any change which has been proposed as yet would be for the better.

By what means do you anticipate that the agitation for a national system would be annihilated, as you have expressed it?—I presume, if the leading members of Parliament, to whom the people naturally look, were to let it be plainly understood that the introduction of any other general measure than the one now in operation, altered and improved as I have suggested, need not be looked for, it would go a great way towards terminating the agitation.

You think there is no prospect of any improvement on the present system until that occur?—No; I believe that the agitation is paralysing our exertions.

By "our," you mean the Free Church?—Yes.

Do you think it would be practicable to increase the amount contributed by the churches for the promotion of education?—I think very greatly. We have had two or three legacies, though I wonder that we should have got any in present circumstances; and I have reason to know that more were contemplated, which we have not got, because of the utter uncertainty hanging over our position in reference to our schools.

Mr. Dunlop.—One of the improvements which you mentioned, in regard to the parish schools, was in the mode of appointing the master: how would you have the master appointed?—I have had so little expectation of any of my ideas being realized, that I am not prepared to state any plan particularly. I would only state generally that the old system was perhaps the best, provided the Church of Scotland had been viewed, not as found in one section, established or unestablished, but in all sections.

You know how the schoolmaster is appointed by the present law?—Yes.

According to your view, would any alteration be necessary on that matter, or are you satisfied with the law as it is?—I am not prepared to give any specific answer to that question.

In what way would you make operative the idea that the Church of Scotland

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should be considered to consist of the Established Church, Free Church, and other Presbyterian bodies that have seceded from it?—I suppose by the Legislature making no distinction between them, but giving them all the same position.

In what respect?—The same virtual control over the management of the schools.

Do you mean that the clergymen of these different denominations should have a right to attend the school, and have a superintendence over it?—If the Churches themselves were not formally recognised, I would have the office-bearers who represent them placed in a position which would give them effective control over the appointment of the teacher, and the superintendence of the school.

In what way would you do that?—That is a matter encompassed with difficulties, and I feel averse from mentioning any crude suggestions of my own.

You stated that you thought it necessary that the school should be attached to the Church?—Yes; that there should be a virtual control over the schools by the Churches.

Do you mean that, supposing the parochial system to be altered, the clergymen of each section of what you call the Church of Scotland, should have a control by Statute?—The power would need to be secured and preserved by Statute, and practically we know that the ministers take nineteen-twentieths of all the labour connected with keeping up education, wherever it is effectually kept up. In churches, with popularly constituted ministers and office-bearers, you have fair representatives of the people.

Do you propose that the clergymen and their sessions should have the choice of the master?—I think Church-courts or ministers, *ex officio*, should, as representatives of the church, have a controlling power over the appointment of teachers, and the superintendence of the schools.

Have you been a parish clergyman?—No; when I came from England to Scotland, thirty-one years ago, I was minister of a *quoad sacra* church.

Can you give us any information as to the attention which a parish clergyman generally gives to the school in his parish?—I believe that the attention given formerly was far from being what it ought to have been. I have no doubt that ministers who are earnest in teaching the old will be so in teaching the young. I believe there was a want of earnestness formerly. I believe it was reviving very much before we left the Church in 1843, but the improvement was just beginning. I don't know much about it since.

You said that in one school connected with you, a majority of the children belonged to other denominations than your own?—That is the case with all of them.

What denominations are these?—Established Church, United Presbyterians, Baptists, Independents, Episcopalians.

Catholics?—We have had Roman Catholic children. There is no priest near us to look after the children, and the parents are glad to send them. The priest comes occasionally to pay a visit, and he has sometimes taken them away. We have few Roman Catholics: out of a population of 15,000, I don't suppose there are twelve Roman Catholics.

How do you manage as to the religious teaching of Episcopalians?—They learn the Scriptures and the Catechism. We have had few Scotch Episcopalians, because they have got up schools for themselves; but the children of other Episcopalians (occupying the same position with Mr. Drummond in Edinburgh) have attended. We never teach them the Catechism when they don't want it.

Would you make the attendance of children at school compulsory?—The partners of one large work near us have made it a rule that when young people apply for employment they shall be examined as to their ability to read and write; and they prefer taking on those who can do so when they want new hands.

Then you see no difficulty in making it compulsory?—It would create a certain amount of feeling in different quarters, but I don't think there would be any serious obstacle in the way. It has long appeared to me that that would be an effective remedy.

Mr. Cook.—When you speak of the Church being divided into different sections, you allude to the secessions of the United Presbyterians and Free Church?—Yes; and the Reformed Presbyterians.

These are all different Churches now?—Yes.

Each with its distinctive principles?—To some extent; but not in regard to what is taught in the schools.

Don't you think there might be some difficulty in devising a scheme by which

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one establishment of schools could be placed in connexion with four Churches?—No doubt there would; but no great national arrangement can be accomplished without difficulty. I don't think the difficulties are insurmountable.

You are not prepared to suggest a scheme by which it could be done?—No; my attention has been directed chiefly to the best way of meeting the destitution that exists.

I think you stated that you would give the clergy of the Churches which have seceded the same *ex officio* rights with reference to the schools that the clergy of the Established Church now have?—Yes.

Do you see any difficulty, in point of principle, in giving *ex officio* rights to a clergyman who is not a public officer?—I see no difficulty. It is no new opinion of mine. In 1838, five years before the Disruption, and when we never thought of such a thing, I recollect, at a meeting of an association connected with the Synod of Angus and Mearns, giving it as my opinion that the evangelical bodies should be introduced, considering the proportion which they constituted of the population, and the interest which they had in the education of the young. I have held that opinion since.

But might not a difficulty be felt in other quarters as to conferring such rights on clergy who are not public officers?—I think it is very likely.

You are aware that the ministers of the Established Church are public officers, and that the clergy of seceding denominations are not?—Yes.

Does not that make a difference in their position with a view to the enjoyment of *ex officio* rights?—No.

You think it makes no difference?—I think it makes no difference.

Lord Jerviswoode.—What age do you think children should be before they are allowed to enter public works without any inquiry being made as to their education?—I am not prepared to say; but, whatever age is fixed on, there should be an educational test.

Supposing a child educated in early life, how soon would the effect of that education be lost if it was not carried on?—My experience is, that a great deal of what they get is lost because it is very imperfect. Their attendance is very irregular, so that they learn as little in one year as they would in three months if their attendance was regular. They do not learn in three years as much as they would do in a much shorter time if they were constantly at school; and when they are twelve and upwards, making wages for themselves, it is a melancholy fact that such education as they have got leaves them; they have no interest in reading, and they are worse almost than if they had never been taught at all. If we had some such Act as that to which I refer, I have not the least doubt that, in the prospect of its being applied, it would create a perfect revolution in the kind and efficiency of the education given to the children in our manufacturing districts.

What were the relaxations which you stated should, in your view, be made in regard to the Privy Council grants?—I mentioned four particulars in which I thought changes should be made on the New Code; but there are others. I think the teachers are left too dependent on the managers, though that should render them careful to have a carefully prepared agreement. The managers have such control of the funds that they may easily wrong the teachers without that; and there is no prospect of retiring allowances for teachers after they are worn out by their work.

Mr. Black.—You said you thought the present system of education in Scotland was the best that you could devise?—I said the best system practicable,—not that I could devise.

Do you suppose it to be a practicable system to get the Established Church, Free Church, United Presbyterian Church, and all the other sects to unite?—I think it is the most practicable of any system that has been proposed. Any system is invested with difficulties; but it is the most practicable that has been proposed, I think, and might probably be arranged. I would not, however, like to pronounce a very conclusive judgment as to the practicability of it. What helped to confirm me in this idea, which I have had for many years, was, that at a large public meeting on the subject of education in Edinburgh, in 1850, I think, there were letters of apology for absence read from several members of Parliament,—among others, from Mr. Hastie, member for Paisley, and from the member for the Kirkcaldy burghs; and in these letters they said in substance—"Why don't the Presbyterian ministers of Scotland agree on a common system?"

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pared to state instances at this moment. I understand the Privy Council Committee are more careful now to make full inquiry before they establish additional schools where the field is already occupied.

Does the present system tend to make the schools denominational, in the sense of their being mainly attended by children of one denomination?—The schools are denominational, so far as regards their management.

But so far as your experience goes, does that render the attendance of the children denominational also?—Yes; I think it does, except in particular circumstances, where the population is so very scanty in a district that there is only one school; but I don't think the children of other denominations would, in any numbers, go to a school not belonging to the church with which they are connected, unless in the circumstances I have indicated.

Do you find that in the schools with which you are connected in your own parish, there are children of other denominations who attend freely?—Yes; there are. There is a considerable mixture.

In your opinion, would any plan of a more uniform and national character, based on an extension of the parochial system, or otherwise, be better fitted to overtake the education of the country?—I don't think it is practicable to have a national system of education, such as would embrace the children of all sects and denominations in Scotland.

On what grounds do you think it is impracticable?—There are differences between Churches, which, I think, would prevent them from uniting in support of any school.

Do you mean the different Presbyterian Churches?—Yes; and there are still greater differences between the Presbyterian bodies and the Roman Catholics.

But do you think there are such differences between the Presbyterian denominations as would prevent their children from being taught in a common way?—The Presbyterians are divided into three Churches: the Established, Free, and United Presbyterians.

Does that division extend to the teaching of the schools?—I think it does.

In what respects?—I don't think they would have sufficient confidence in each other, to unite in the management of schools.

Then it is not in regard to the teaching, but in regard to the management, that you think there would be difficulty?—Yes; the greatest difficulty would have reference to the management.

Do you not see any scheme by which they could be brought to act together?—I am deeply impressed with the importance of maintaining the religious element in the teaching of schools; and it has always appeared to me that it is impossible to provide for the maintenance of that, except in connexion with some Church or another.

Do you think that religious instruction should be enacted by Act of Parliament?—It would be very well for Parliament to enact that religion should be taught in the schools; but I don't think Parliament, by any statutory enactment, can possibly secure the object of religious teaching in the school.

There is not such statutory provision at present, is there?—No; not so far as I am aware.

Then hitherto how has it been secured, in your opinion?—By the connexion between the schools and a particular church.

Do you think that essential?—I do.

Have you paid any attention to the difference between the Old and the New Code?—I have; a little. I think the Revised Code, as it is called, perhaps leads to more attention being paid to elementary education, because that Code makes the money granted to the school depend upon the number of children who can show some satisfactory progress in elementary education.

Do you think that to that extent it would be injurious to the education of the schools?—It might; but I know that the instructions connected with that Code, given to the inspectors, direct them to pay particular attention also to the manner in which the higher branches of education are taught.

Do you apprehend any injury to the teaching of the school, or the qualification of the master, from the provisions of the Revised Code in that matter?—No, I don't think it. Under the Revised Code, the inspectors are allowed to take cognizance of the teaching of Latin at even an earlier period than under the Old Code.

Would that affect injuriously the period of attendance of children at school? —I am not able to give an opinion upon that point. I have not directed my attention to it particularly. Rev. Dr. Grant.

Do you take any interest in the management of the Normal School?—No. I have not been on the Education Committee for a great many years.

Then you have no view to state, in regard to the bearing of the Code, on the Normal Schools?—No.

Lord Ardmillan.—I think we may understand it to be your opinion that you rely, as the security for good religious instruction in the schools, upon their connexion with a church?—Yes, with a church.

And you would not think any other security satisfactory or adequate?—I don't know any other security that I would consider adequate; the general provisions of a Parliamentary enactment I would consider wholly inadequate.

Do you not think that the personal character of the teacher is the best of all securities?—Unquestionably; but that is the best security for a clergyman too, although we think he is all the better of having his presbytery or bishop to look over him.

But if the teacher be both qualified to teach, and a pious man, I presume you can have no better security for religious instruction in the schools?—That is the chief point unquestionably.

Is it not, therefore, of the greatest importance that the teacher shall be elected by those who have the greatest interest in having him a good teacher and a pious man?—If they have the requisite measure of intelligence.

Don't you think that that deep interest in his qualifications as a teacher, belongs peculiarly to the parents of the children?—Yes; but I don't think the parents of the children, who are in use to take the benefit of the parish schools in Scotland, have that measure of intelligence.

But supposing they have adequate intelligence, do you think they have adequate interest?—Of course, they are the most directly interested.

Intelligence in the matter of choosing a pious teacher is a different thing from intelligence in many matters; I may be far from an intelligent person, but I may have sense enough to know that my child will not be well taught, unless he is taught by a godly man and a good teacher: may I not be able to form a pretty good judgment on that?—Yes; but very sensible and well-meaning men may be led,—by sectarian feeling, for instance.

But heritors may be misled too, may they not?—They are more above that.

You would rather rely upon the choice of heritors than of parents in the selection of a teacher?—I would, the parents being in a certain position.

Mr. Ramsay.—Have you any personal knowledge of localities in which denominational rivalry has led to the establishment of too many schools?—I am not prepared to state localities. I have understood that in one village of the parish of Cramond, the name of which I forget, there are two schools; and perhaps it may be a little doubtful whether there is any necessity for two.

Does not that depend upon the population?—Yes; but I don't think the population is very great.

Are both these schools receiving aid from Government?—I believe so. A school was erected as a rival school of one belonging to my church, a good many years ago, in the village of Canonmills. The population of that village and neighbourhood is very considerable, and I don't say that there is not use for both schools. However, I was surprised, when they issued their appeal to the public for their school, that they ignored the existence of my school altogether, and spoke of the population of Canonmills as if it was wholly unsupplied with schools. However, I have no objection to the existence of that school. They receive Government aid. They have never put down my school; and I have double the number of children at mine that they have. Perhaps the population is better of having them both; but I mention that in their appeal to the public they ignored the existence of my school, as a proof that there was probably some sectarian feeling.

Is your school attended exclusively by children of parents belonging to the Established Church?—Not exclusively; but I should say the great bulk of them are connected with the Established Church. A good many are from Canonmills; and, though the school is close to Canonmills, it is not in my parish.

You prefer the heritors electing parochial teachers rather than the parents:

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would you be satisfied if the election was left to the heritors alone?—Do you mean without the clergyman?

Yes.—If Parliament were to exclude from the board of management of the schools, the man who is the recognised teacher of religion in the parish, I could not believe that Parliament was sincere in its desire to have religious teaching in the schools at all.

Then you would not approve of any arrangement which would leave it exclusively in the hands of the heritors?—I certainly would not.

Mr. Davidson.—What was the cause of the institution of the new school at Canonmills?—It was professedly to supply the want of schools in that village and neighbourhood.

Who was it set up by,—was it by one denomination?—No; it was professedly set up by all the denominations, I believe, excluding the Established Church; but it has come, as I understand, wholly into the hands of the Free Church now.

Did they object to anything in the management or teaching of your school?—I conclude they did; but they did not state that in their appeal to the public, but wholly ignored the school.

I think you said that you thought it impracticable to get a national system more extensive than the present parochial system: I presume you meant that the difficulty lay in the feeling between the denominations?—Yes.

Is there anything else which occasions the difficulty?—I think it may be fairly presumed that the sects would not work together, from the fact that they are not able to go on with the same inspectors. There is a system of inspection by the Privy Council inspectors over Scotland, and instead of appointing, as would be the least expensive and the most convenient mode, a district for each inspector, in which he would visit all the schools supported by the Privy Council, each Church has its own inspector, and it was found that the Churches would not go on without that.

Are you aware that the Established Church inspector visits Free Church schools, and that the Free Church inspector visits Established Church schools?—If they do, it is to a very small extent; I was not aware that it was done at all.

Is the feeling which you refer to confined to the clergy, or does it exist among the laity?—I think it pervades the laity too. You will bear in mind that I am not talking of what should be, but of what is.

There is no difference between the Presbyterian bodies in regard to the mode of teaching religion, or in regard to the religion that is taught?—So far as I know, there is not; though I have heard of a Free Church catechism I never saw it, and I don't know what its contents are. Whether it is taught in their schools or not, I don't know.

To what catechism do you allude?—It was intended as a catechism for children. Whether it is in use in any of their schools I don't know, nor do I know the nature of it.

You are not aware that it is taught anywhere?—I am not.

What do you say to a system which should change to a certain extent the present parochial system, as to the choice of a schoolmaster and the superintendence of the school, to this effect, that in addition to the parish clergyman, the Presbyterian clergy of the different sects in the parish should also have a voice in the election and superintendence,—I mean that the heritors should remain as they are, that the clergyman of the Established Church should remain as he is, and that the clergymen of the other Presbyterian bodies should be introduced?—I don't think they would get on well together on the board; besides, it would be a very great innovation on past practice if Parliament were in any enactment to recognise Dissenting bodies, who have hitherto been ignored in law; and I don't see how they could recognise certain Dissenting bodies, to the extent of admitting them into the board of management of the parish school, and exclude others.

You mean Episcopalians and Roman Catholics?—Episcopalians and Roman Catholics and Unitarians. There never could be an enactment passed—at least I should think it not very likely—that would provide that everybody calling himself a Dissenting minister should be a member of that board. On the other hand, I don't think it very likely that Parliament would confer the power, by selection, upon a few, to the exclusion of others.

Mr. Cook.—When you said you would rely rather upon the heritors than upon the parents of the children for the selection of a schoolmaster, I suppose you had

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in view that the schoolmaster requires to possess various qualifications besides that of being a good and religious man?—Surely.

Qualifications, literary and otherwise, of which the heritors, from education, may be supposed to be better judges than the parents of the children?—Of the children who attend the parish schools of Scotland.

In using the term "heritors," you allude to the heritors having the qualifications?—Yes.

Mr. Black.—You are a governor of Heriot's Hospital?—I am.

Is the body of governors not composed of men belonging to all the various religious sects?—Yes.

Have they any difficulty in meeting together and appointing a teacher?—I think there is nothing they do that gives rise to so much jealousy.

Are you aware that the teachers whom they have appointed are generally as good teachers as are to be found in any of the parish schools?—Yes; I am disposed to think that they are, upon the whole; but there is a great deal of jealousy and sectarian feeling among the governors in regard to the appointments.

Although the governors are of a great variety of sects, they likewise contrive to manage their schools: don't you think they are as well managed as the parish schools or any of the other schools in the country?—Yes. I have no fault to find with the way in which they are managed. There is about one-third of the governors composed of the ministers of one communion.

But all the ministers don't always vote for the same man?—Perhaps not.

So that there is a division, even among the ministers of the Established Church, in these cases?—That is, a difference of opinion in regard to the qualification of the parties.

But they did split and divide as well as the other governors?—They arrive at different conclusions, and they may do that on independent grounds.

Do you suppose that the religious teaching in these schools is as good as it is in the parochial and other schools?—I have no reason to think that it is not properly attended to; but as I said before, one-third of the governors consist of clergymen of the city parishes.

But you have, at all events, in that body, elders and office-bearers from other Churches?—Yes.

You acknowledge that in the case of Heriot's Hospital, the sects work well enough together in the management of the schools?—I am not disposed to say that.

Have you any fault to find with their management?—I daresay the result has been that we have got, on the whole, very good teachers.

Supposing that the system were extended throughout the country, do you think there would be any great danger?—Yes; I would anticipate danger. You cannot find such a board as the governors of Heriot's Hospital in every part of Scotland. The governors consist of the ministers, and the Lord Provost, Magistrates, and Town-Council of the city. You cannot get a constituency of that kind to manage the schools in every country district.

But supposing you had the ministers of the district on that managing body, and a certain number of managers elected by the ratepayers, would that not be pretty nearly the same as the management of Heriot's Hospital?—I don't think it would be in the hands of equally intelligent men.

Do you suppose that the men of Edinburgh are more intelligent than the rest of the country?—But the governors of Heriot's Hospital are not chosen from the constituency of each parish to manage the parish school.

But, excepting the ministers, they are all elected by the £10 voters?—By the whole city, to manage the municipal affairs.

But they are elected by the £10 householders, in the same way as the managers would be by the ratepayers?—Yes; but they are elected for another purpose altogether—not to manage the parish school.

Would it not be a great improvement if the Government inspectors, instead of being confined to the schools of a particular Church, should go through the whole schools in his district?—That might be very well; and the fact that the jealousy of the Churches has prevented that arrangement from being made hitherto, is, I think, conclusive against the practicability of having all sects united in the management of the parish schools. It is the more remarkable, too, that the inspectors are forbidden to interfere with the religious teaching in the schools,

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and yet in spite of that, it has been found impracticable to have the schools of one sect visited by an inspector belonging to another.

Mr. Dunlop.—Was any proposal of that kind ever made and rejected?—I am not able to answer that question; but I take for granted it was, because the present system is attended certainly with inconvenience and additional expense, so that I conclude it has been tried. There was an inspector of the schools in Scotland at a time when they were very few; but when the separation took place in 1843, he attached himself to the Free Church, and remained inspector of all the schools; and I know that the Established Church were dissatisfied with him, and made representations against him, in consequence of which he was superseded or forced to resign; and he afterwards became inspector of the schools belonging to the Free Church; so that the thing has been tried to that extent.

But it was prevented by a remonstrance from the Established Church?—They complained of remarks which he made in his report, in regard to Presbyteries and their superintendence of the schools; and they were the more jealous of that as coming from one who was beyond their own pale.

The Lord Advocate.—As I understand, the difficulties you see in regard to having a general system, are, first, the want of security for religious teaching; and, second, the impossibility of obtaining the satisfactory management of the school?—Yes.

As to the religious teaching: in point of fact, the religious teaching is the same in all the schools in Scotland, except those belonging to the Catholics and Episcopalians?—Yes; probably very much the same.

Even adventure schools?—Yes.

Is it not the fact that in all the adventure schools, with hardly an exception, the religious teaching is precisely the same as it is in the parish schools?—Yes. I am not much acquainted with adventure schools, there are very few of them in Edinburgh; but a man setting up an adventure school is constrained to conform very much to the practice existing in the neighbouring schools.

You said that you would not believe that Parliament was sincere in its desire to have religious teaching in the schools, if it enacted that the minister should not be *ex officio* one of the managing body: you would hardly go so far as to say, that no one would wish to have religious teaching who did not approve of the minister of the Established Church holding the position which he does at present?—I would qualify my statement to this extent, that it would not appear to me to be very consistent.

You are aware that there are opinions to that effect entertained by a large body of men, whom you cannot suppose to be indifferent to religious teaching,—you think religious instruction cannot be secured where you have a mixture of denominations in the managing body?—No, I don't think it could.

Is not the managing body at present composed of people of all denominations?—Yes.

Does that produce any difficulty in the management?—Perhaps it does not. The greater part of the heritors are either members of the Established Church, or Episcopalians; and in either case, they are very much disposed to leave the arrangement of the school to the clergyman. I don't think that is tantamount to the clergyman having the exclusive management of the school, because every proposal which he makes must be shown to the heritors to be for the good of the school. He is under that control.

But, practically, the difference of denominations does not in the least interfere with the management of the school?—No, I don't think it has hitherto.

Do you think that the management of a school belonging to the Established Church, is better in the hands of an Episcopalian than a Presbyterian, so far as the religious element is concerned?—There is less likelihood of an interference. I don't think an Episcopalian heritor is likely to interfere with the school; but a rival Presbyterian school is a very different thing.

You would rather have the Episcopalian than the Free Churchman?—I think two rival Presbyterian ministers could not get on together on the same board.

But I am talking of the difference of denomination: at present you may have a Roman Catholic a sole heritor, or you may have two Roman Catholic heritors?—Practically, I am not aware that any mischief has ever arisen from that.

Or you may have a sole Free Church heritor: do you think the religious instruction of the school would be in danger if that were the case?—No; but I think

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the fact of men of different Churches being on the same board of management, with the state of feeling which I lament to say exists in Scotland, would cause annual bickerings and jarrings in the management of the school; and when a vacancy occurred in the office of teacher, the question would be whether a Churchman, or a Free Churchman, or a United Presbyterian was to be introduced.

At present a Free Churchman might be the master of a parish school: have you found that any of these bickerings have occurred, in the election of schoolmasters, since the passing of the late Act?—There have been very few vacancies since the passing of that Act, and I do not know its working at all.

Suppose no change were made on the present body of heritors, as the managing body, except that the ratepayers who elect the Parochial Board should have the nomination of two men to sit on the board with the heritors, along with the minister of the parish, would you apprehend any very serious effect on the religious teaching of the children?—Hitherto the heritors have been Episcopalians, if they have not belonged to the Established Church. No Episcopalian teacher could be appointed, and they generally left the matter to the clergyman of the parish, requiring him to show the grounds on which he selected a particular individual. What effect the opening up of the school might have, it is impossible to say; a great deal would depend on how far it was carried.

If you could secure that children of all denominations should go to one school, would that not be a very desirable end to attain?—I don't think such a consummation is likely to be attained, however much it is to be wished. I think, wherever you have a large population very much divided as regards the Church to which they belong, you will have schools connected with different denominations. Though the scheme which seems to be in contemplation were carried through, I don't believe that the General Assembly would abandon the schools they have.

But they would probably put them in places where there was a deficiency?—Yes; but we would cease to obtain Government aid, and that would be a very great hardship.

You don't think that the parents generally look to where they can get the best education for their children, irrespective altogether of Established Church or Free Church: if there is a good Established Church teacher and a bad Free Church teacher, won't they all go to the good teacher?—No, I don't think so.

Mr. Cook.—You are aware that the present qualification of heritors is not that they belong to a particular denomination, but that they hold a certain amount of property?—Yes.

Supposing that there were substituted for that a representative board, intended to represent the opinions or the views of the parents of all the children attending the school, don't you think they would probably be chosen with reference to their belonging to this or that religious denomination, and that there would be a struggle for having a representation of a particular denomination at the board?—Yes, I do.

Don't you think it probable that a board so composed would be more likely to be animated with the spirit of the different denominations, than a board as composed at present?—I think it might.

The Lord Advocate.—In some of the northern counties, you are aware that there are many instances in which the Established school is nearly deserted: have you anything to suggest with reference to such a case as that?—I have not turned my attention particularly to that matter; but the state of things there is very exceptional, and it may be that it would be proper to apply some exceptional legislation to that district of the country.

Mr. Mure.—Those bickerings which you refer to as likely to occur if there were different denominations meeting at the same board, have they ever occurred in reference to any public school in Edinburgh, in the Original Ragged Schools, for example?—I am not able to say; I have not been in the management of that school.

Have you anything to do with George Watson's Hospital?—No.

Are you aware of the constitution of the managing body of that Hospital?—George Watson's Hospital is very much under the management of the Merchant Company of Edinburgh.

Is it open to them to elect masters of any denomination?—I presume it is, because I know that they have masters of various denominations.

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Have you ever heard of any such differences as you allude to arising there?—I know there was a great deal of disputing among the Governors of that Hospital as to the church that the children should go to.

But as to the election of masters?—I don't know.

Are you aware whether, in the board of management, there is a very considerable proportion of gentlemen who do not belong to the Established Church?—I think there is a great mixture.

Do you know whether Mr. Millar, the house-governor of the Hospital, is a member of the Established Church or not?—I do not know.

[THE LORD ADVOCATE *here took the Chair.*]

DR. KNOX,—*examined.*

Dr. Knox.

The Chairman.—You have been for a great many years schoolmaster of the parish school of St. Ninians?—I have.

You have had great experience in your own parish, and generally, as to the mode of instruction in the parochial schools?—Yes.

You have paid a great deal of attention to the operation of the Privy Council grants in regard to the parish schools?—I have not so much experience as to that, having never taken the benefit of the grant myself.

Has your school never taken the benefit of the grant?—My school has it under the teacher who acts as my assistant; but I have never had it myself.

To what extent do you think the parochial system as it stands, is adequate for the instruction of the country?—I have no hesitation in saying that the parochial schools do not meet the whole wants of the country, in consequence of the population having outgrown the provision made by these schools; and I have no hesitation in saying also, that the Government grants have not met the wants of the country, inasmuch as the poorest districts are not able to comply with the conditions required by the Privy Council.

Are you in a position to give any instances illustrative of that view?—In my own parish there is a moorland district seven or eight miles from the parish school, and an effort was made some years ago to get up a school there, but it resulted in nothing.

Is there a population there requiring a school?—There is not a large population, but still the children there are too distant to go to any school on either side.

Do you believe that that state of matters exists in a great many other parishes?—I do.

The Privy Council grants don't meet these cases, because the districts are unable to provide the equivalent which the Privy Council require?—Quite so.

Do you think that the Privy Council grants tend to the establishment of schools that are not required?—Yes, I do.

Do you speak as to that from experience?—I do; I know of schools where the whole population consists only of 950 people, and another school has been erected within 300 yards of the parish school.

What is that parish?—Cults; and I think the same is the case in Gargunnock, which has a population of 850.

Have you reason to think that occurs in a great many instances?—Yes, I have heard so.

Is that the general impression in your profession?—Yes.

According to your opinion, the Privy Council grants do not provide for the localities where the greatest need for schools exists, and they are given where there is no need for them?—Such is my opinion.

Can you make any suggestion as to the best mode of meeting such cases as you have mentioned?—Nothing has occurred to me except the erection of schools under a system based on the extension of the parish schools.

Taking your supposed extension of the parish schools, to what extent do you think the existing body of heritors and the minister could be improved, so as to represent more completely the feelings of the district, without interfering with the efficiency of the school?—So far as any new schools may be erected, I think you would require a different class of managers. The managing body of the parish schools is composed of the heritors, the minister, the Presbytery, and the

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Sheriff, and they have in their hands the election of a teacher, the fixing of the salary, the fixing of the schools, and the fixing of the branches of instruction; these are all in the hands of heritors. The fixing of the hours of teaching, and of the vacation, is in the hands of the Presbytery. As to charges against the schoolmaster, with reference to neglect of duty, the Presbytery can act, on a complaint by the heritors, minister, or elders, by the Act of 1803, still unrepealed, or under the new Act of 1861. That can be dealt with by the heritors and minister after examination. Charges against the schoolmaster for immoral conduct must be dealt with by the Sheriff, on complaint by the minister or Presbytery, and for cruelty to the children on the same footing. If you are going to raise the salary by a rate, I don't think you can give the heritors and minister the sole power, because the parties who pay the rate must have a certain share in the management. The great matter is first to settle who are to be the managing body. If you do not raise the rates over the whole parish, I think the difficulties are insuperable; but suppose all property of every kind pay the rate, just like the poor-rates, I think there ought to be a general body, representing the classes who pay, for the management of these new schools.

You are speaking of schools outside the parish schools?—Yes. I am speaking of the new schools alone. I don't think that the constitution and management of the parish schools ought to be changed. I have a strong opinion on that. Several Acts have been passed since 1696, and not one of them has proposed any change on the constitution and management of the parochial schools. That is a negative proof of its being approved of. But we have a positive proof, because the Act of 1838 provides—"And be it enacted that all schoolmasters appointed, etc., shall be under and subject to the like jurisdiction, regulations, conditions, and provisions, and have and enjoy the like powers, privileges, immunities, and exemptions as parochial schoolmasters under the said last-mentioned Act;" though in this case the endowment is entirely by Government.

What is your view as to the management of the new schools?—First, there must be some party with power to select the districts for the new schools. Whether that should be by a commission acting for a certain number of years, or by a permanent central board, I am not prepared to say.

I suppose you contemplate the payment by Government of a certain proportion of the expense, and the raising of the rest by rate?—Yes; I think half the salary should be paid by local rates, and the other half should be paid by Government.

You think that would be preferable to the present denominational grants?—Yes; very much.

Would you explain in what way you think Government should proceed to ascertain what schools are required?—In my own parish there are only the parish school and other two schools, so far as I know, endowed, while there are about twelve schools in the parish. The schools which are really wanted, if they obtained endowment, would be of a higher character; and I think the country would be generally benefited by having a school similar to the parish school established in various parishes where there has been an increase of population.

Lord Belhaven.—What is the population of your parish?—9000.

The Lord Advocate.—What population do you think sufficient for one school?—I would think 1500 or 2000.

You think that where the population is over 2000, there should be more than one school?—Yes; if it was much over 2000.

How many children do you reckon out of a population of 2000?—According to the Prussian rule, there ought to be a great deal more than 200. I should say there should be more than one school where the population is above 1500.

Do you think the number of schools should bear a proportion to the population?—Not always; in Highland districts you would require more, because the population is thinly scattered.

How would you propose to provide for the religious instruction in the new schools?—I think it might be very safely left in the hands of the committee of management; but I cannot say that I have made up my mind on that point.

But your impression is that there would be no danger in leaving it to the committee?—No danger. I am quite sure the schoolmaster would be compelled, by public opinion, to pay proper attention to religious instruction.

Do you think that the superintendence of the Presbyteries at present has much

Dr. Knox. effect in regard to the religious instruction in the schools?—I don't think they have ever been required to interfere. They see religious instruction given at all their examinations, and I am not aware of their ever having interfered on that head.

You think the election of the schoolmaster might be safely left to such a body as you have suggested?—I think so.

What is your opinion of the recent Act as to the examination of teachers by the University Committee?—I have had no experience of it.

Speaking still of your proposed new schools, have you anything to suggest in regard to the dismissing of the master, and the jurisdiction over him?—I think if the committee of management had the same powers as the heritors and ministers have in regard to parish schools, you would have the means of dismissal in every case requiring it.

Has the late Statute worked efficiently in that respect?—So far as I know, it has.

You don't think that more stringent power of dismissal would be required?—I don't think it.

Do you find that denominational feeling exists on the part of parents to a great extent?—I never felt it in our district. Children of all denominations go to the parish school.

If a general system were set on foot, such as you have described, do you imagine that the parents would have any unwillingness in sending their children, on account of the denomination to which the master belonged?—It is possible that denominational feeling might run high in some quarters, and that an effort might be made to carry a man of their own denomination. How far that might produce evil effects I am not prepared to say.

But you would not attach great importance to that consideration?—No, I would not.

In regard to the parish schools, I suppose the heritors generally leave you to do very much as you like?—Yes; but they are glad to see the school flourishing; and I have no doubt if things were going wrong, they would not be long in getting them put right.

The inference from their not interfering, is that things are going on right?—Yes.

Are you aware that all the heritors who pay are not entitled to a voice in the management of the parish schools?—Yes.

Do you think there would be any objection to extending the management to all the heritors who pay?—Yes; I think that would be an evil. I don't think that men of no education, and not having a respectable standing, ought to have any power to interfere with the education of the country.

You think if all the heritors who pay were admitted that would be the case?—I have in my parish above 120 heritors, of whom only 25 are qualified; so that there are more than three times that number who are not qualified.

Are there not some of these men who would be quite qualified educationally for taking part in the management?—Yes; but there are a great many whom it would be very improper to intrust with it.

You think that it would be right to adhere to the present restriction?—Yes; so much so, that in regard to the new schools, I think there ought to be a restriction of the qualification of the elected members.

To what extent do you think the parish schoolmasters are not sufficiently provided?—I think the operation of the Privy Council grants has led many parish schoolmasters to give up very considerable portions of their income; and if the grants are withdrawn from them, these men will lose £50 or £60 a year, and they are not few in number.

Does that arise from the pupil-teacher system?—From the grants to themselves and to pupil-teachers, and perhaps an assistant.

Putting aside the Privy Council grant, to what extent do you think the legal provision for schoolmasters is sufficient?—It is very far from being equal to what it was when the schools were first founded. At that time the provision for the schoolmaster was very little inferior to that for the clergyman; but by the lapse of a century, during which there was no legislation on the subject, whilst the value of money had decreased to one-fourth, without any addition being made to the schoolmaster's income, his position has changed. No doubt, a great deal of good

has been done by the Act of 1803, and still more by the Act of 1861; but I don't think it is sufficient yet. Dr. Knox.

Do you not think that to raise the salary imposed upon the heritors would in many cases put a burden upon them beyond what they could conveniently bear?—I have thought of that very seriously. The new rates will, in many parishes, be laid over a much larger value of property; for instance, I could point out a parish in which the old Scotch rental is equal to £6000, which you may set down now as equal to £6000 sterling; but the parish itself has property to the amount of £56,000 or £60,000; consequently the new rates in such a parish would only be borne, one-twelfth by the land, and eleven-twelfths by the new property that has sprung up. In such parishes the burden would be very light; but in extensive and thinly populated Highland parishes I think the additional school ought to be erected and endowed by Government entirely.

In these thinly populated parishes, the heritors and the ratepayers would come to be much the same?—Yes.

How much, in your opinion, should be the maximum salary of the schoolmaster?—I am nearly done with it, and therefore I may state my opinion freely: I think the maximum ought not to be under £100.

Lord Belhaven.—The maximum at present being £70, you would raise it to £100?—Yes.

The Lord Advocate.—And the minimum?—The minimum must be allowed to vary, from the very great difference in the kinds of parishes. I would raise the minimum in every parish having a certain valuation.

You would graduate it according to the valuation?—Yes.

Have you anything else to suggest?—I don't think it would be proposed to continue the superintendence of the Presbyteries as to the new schools; but I think there ought to be an annual examination. That does an immense deal of good, and is looked forward to both by master and pupil. During the greater part of my time, I have had two examinations, one by the Presbytery, and the other a voluntary examination. They are exceedingly useful.

Do you think that the status of the schoolmaster and the general standard of attainment is higher or lower than it was?—It is greatly improved since the commencement of this century, though it is not at all equal to what it was at the beginning of last century.

On what do you found that opinion?—On the change in the value of money.

But I am speaking of the standard of acquirement?—The standard of acquirement was very high at one time. I think it is very respectable just now.

Better than it was twenty years ago?—Yes; much better than it was fifty years ago.

In regard to the teaching of the ancient languages, Greek and Latin, is that increasing in the parish schools, or decreasing?—It declined some twenty or thirty years ago; but there seems to be a reaction, and it is recovering its former position.

Have you anything further to suggest?—I am extremely anxious that any new committee of management should not have the power of unnecessarily interfering with the teacher. If they had such a power, it would not only ruin the status of the teacher, but it would ruin education. I have seen examples of that in my own parish, where a local committee took the management, and everything went to ruin from their interference with the master. I think the managing committee's powers should be limited to those at present possessed by the heritors and minister in the case of parish schools,—fixing the salary and school fees; and, of course, they take an interest in the examination, whether by Government inspectors or by the Presbytery; and they have the power to complain to the proper authorities.

To what authority would you say?—I don't see any reason for changing the authority that now exercises that power over the parish schools. In the new schools, I would say that the committee of management should have power to complain to the Sheriff. There is another point, viz., whether the managers of the school are to be elected by the district or by the whole parish. I think it would work much better if you had managers elected for the whole parish from the ratepayers, and let them exercise the powers over every school except the parish school.

You would have in that way managers of one district managing for another

Dr. Knox. district?—Yes; they are elected by all the districts. I think that would prevent any improper local feeling.

Lord Ardmillan.—I suppose the demand for the higher instruction, classical and mathematical, must vary considerably in different parishes?—Yes.

In a parish where there was such a demand to a considerable extent, would it not be desirable that there should be the means of getting the teacher an assistant?—Yes, very desirable.

Don't you think that would be much better than the system of pupil-teaching?—Infinitely better.

And that in a parish where there was a demand for classical teaching, as well as for elementary instruction, and the teacher could not well accomplish all, there might be some provision for giving him an assistant?—I think that would be most beneficial; there might be provision made for an assistant to take the burden of the lower classes off the hands of the master.

That might be done in such schools, as might be reported on by inspector or otherwise, as proper for such an arrangement?—Yes.

Have you seen much of the working of the pupil-teacher system?—Not very much, but I know its operation.

And you think, upon the whole, it is not so satisfactory as that of assistants would be?—That, taken in connexion with the Normal Schools, has done a great deal of good; it has brought out, not equal scholars to what we had before, but it has brought out better-trained boys as regards the drill and management of the classes.

Mr. Ramsay.—You stated that in the parish of Gargunnock, with a population of 850, there are two schools, where one would suffice?—Yes.

Can you inform us what number of scholars these schools are fit to accommodate?—I cannot say. I was at the examination of both of them a good many years ago, and I think there might be from 40 to 50 at each.

Were the schools adapted for a much larger number?—My recollection scarcely serves me; but I think they were the ordinary size of parish schools. They could have contained more.

But supposing there had been a fifth of the population at school, they could not have accommodated that number?—I don't think they could have contained 85 each.

Then there was not too much school accommodation for the wants of the parish?—I am speaking from memory of a state of matters more than twelve years ago.

But you mentioned Gargunnock, as one instance in which there were more schools than were needed: now, is the school accommodation provided in that parish really greater than is needed?—I am not able to say.

Have any cases come under your own observation, in which teachers have been dismissed, under the Act of 1861, for inefficiency?—Yes, I think the parish of Strathblane, if I remember right.

Mr. Cook.—Was the teacher made to resign?—He did resign, but it was practically a dismissal.

Mr. Ramsay.—Did he resign under a threat that steps would be taken?—Yes. I think it was Strathblane.

Have you any knowledge of any other cases of that kind?—Not exactly under a threat.

You attach great importance to the fact that teachers are irremovable, except in the way provided by the Act of 1861?—Yes, I do.

Do you regard the provision made under the School Act, as a payment for the behoof of the teacher, in which he acquires a vested right, irrespective of the discharge of the duties of his office?—It cannot be taken from him; but he can be dismissed if he does not do his duty.

You do not know any case in which he was so dismissed?—Yes, in the case I mentioned. I am not aware whether he got a retiring allowance or not; but if he did, it must have been voluntary on the part of the heritors.

You have no knowledge of any case in which they proved inefficiency?—I could not put my finger on an inefficient school in my own district.

If you came to a parish school, and found it without scholars, would you regard that as a proof of inefficiency?—If there were scholars, and the parish school was empty, I would consider that there was some fault in the teacher.

Would you regard that, if it continued for some years, a sufficient reason for dismissing the teacher?—I can scarcely give an opinion on such a hypothetical case. Such cases have not come to my knowledge. Dr. Knox.

Assuming that such a case did occur, do you think it would be a sufficient reason for dismissal?—I think he would be starved out of it.

Should the teacher in such a case continue to derive the emoluments of his office?—I would like to know the cause of the children not being there. I would look to the whole case.

Do you think the teacher should be dismissed or not?—If the man is ready to do his duty, and capable of doing his duty, I don't see why you should dismiss him. I would inquire into the matter, and so far as he failed in doing his duty, I would bring him before the proper authority.

The Lord Advocate.—You think there might be other causes for the non-attendance of the children than inefficiency?—Yes, and I would inquire into them, and deal with them accordingly.

Mr. Davidson.—I understand you draw a distinction between the new schools which might be necessary in a parish and the present parochial schools, as to the election of schoolmasters and the management?—Yes.

In regard to the new schools, you would let the ratepayers have the election and management?—A certain class of them, to be elected by the general body.

Why would you object to the same sort of body being the electors and managers of the parochial school?—Because they don't pay any of the master's salary. That is one reason.

But you are aware that there are persons paying the salary of the parochial schoolmaster who have no voice in the election or management?—Yes.

Would you introduce them into the management?—No; I think it was for very wise reasons that they were excluded; and on the same ground I would exclude the lower classes from any management in the new schools.

What were the reasons why they were excluded?—They consisted mostly of ignorant men, who did not know what proper education was.

Do you think the class who now pay part of the schoolmaster's salary fall within that category?—I think you are surer of an intelligent body from the qualification now required, than you would be if you came down to parties who are paying three halfpence a year of salary, which I know many do.

But there is a large body who pay more, who have no voice in the management?—I never heard any complaint made on that head.

Would you have an objection to the most intelligent of that class being admitted?—You cannot put into an Act of Parliament a test of intelligence.

Then, would it be the amount of the salary they pay?—Yes, and the amount of property they possess.

The Lord Advocate.—If the real, instead of the valued rent were taken, would it not let in a good many who are at present excluded?—Yes, it would; but I don't think the heritors of Scotland would wish that.

Mr. Davidson.—But what would you think of it?—I would far rather that the qualification should remain as it is. It has wrought most beneficially, and I would deprecate any change.

In the election or management?—Yes.

Then you would not be in favour of introduction of the clergy of the different Presbyterian bodies, for example, into the election or management of the parish schools?—No, I would not.

You have been a long time a parish schoolmaster?—About fifty years.

What is the exact amount and kind generally of the religious teaching in the parish schools?—Scriptural knowledge is particularly attended to; the Bible read and Scripture history thoroughly gone through by the children; they learn, of course, the Catechism, and often the proofs, and are always ready to explain the doctrines; so that both in the history of the Bible and the doctrines of the Church, I find the religious education most satisfactory.

Then the Bible is not merely used as a text-book to teach reading, but the history of it is attended to, and the children receive instruction in the doctrinal part of it?—Yes, that is my experience.

And the Catechism is expounded so that they understand it?—Yes, and the children can expound it.

Does that thorough system of teaching extend generally to the parish schools?

Dr. Knox. —I have been at a very great many examinations, and I have found that in all the schools.

What is done with Episcopalians and Roman Catholics in regard to that?—I never in my whole experience found any one object to the religious instruction given, except one Episcopalian, and he did not join in it.

Then you have never found any difficulty on that matter with regard to any sect?—Never.

Have Catholics attended in the schools you know to any extent?—Yes, but they never made the least objection affecting the religious instruction; and indeed, I have often not known that they were Catholics till long after.

Were there any priests in these districts?—There was a priest at Stirling, which is within a mile.

You never knew any interference, or the children taken away?—No.

What is the amount of superintendence that a parish minister generally gives to the parochial schools?—In general, he takes a very great interest in the school, and visits it very frequently.

How often?—Never at any stated time. He comes as a member of the committee of Presbytery at the annual examination; but he may be in once a week, once a month, or once a quarter.

So that there is a substantial superintendence by him?—If anything was wrong he would not fail to mention it.

Mr. Cook.—He does that as a matter of duty?—I think it is more for his own satisfaction.

A labour of love?—Entirely.

I understand you are not prepared to hold the scanty attendance of children as proof *per se* that the schoolmaster is inefficient?—No, I am not.

You think it might be attributed to other causes?—Yes.

You would only regard it as sufficient reason for inquiry?—Yes; I think all teachers not doing their duty faithfully and well ought to be admonished, and when their conduct is improper, dismissed.

But they are entitled to inquiry, and they are to be dismissed only for their own faults?—They ought not to be dismissed except for their own faults.

Your chief objections to the present system of Privy Council grants, I think, were, that they did not provide for the requirements of poorer districts, and that it had a tendency to accumulate schools in other districts?—Yes.

You are aware that one of their rules is to give aid only to such schools as are in connexion with some religious denomination?—Yes.

Do you think your objections could be removed by some changes in the regulations, without interfering with the rule requiring them to be in connexion with some religious denomination?—I have never turned my thoughts sufficiently to the subject, not being personally interested in that matter, to be able to give you an answer.

It would be easy to provide that there should always be a certain distance between every school established?—It has been held that if there is a strong denominational feeling in a small district, the existence of that denominational feeling is a sufficient cause for a new school.

Then you do connect your objections with that rule?—Yes, I do.

Lord Jerviswoode.—Is the parish school generally near the Established Church?—Generally; and at St. Ninians there is a population of 1300 close round the school.

But is there not a portion of the parish at a great distance from the Church and school?—Yes.

Is there any school in that district?—There was a free school for a time in the same village in which the parish school is, and there was no free school in the destitute part of the parish.

You are aware that candidates for appointment to a parish school now undergo an examination by the Senatus of the University?—Yes.

Have you any knowledge of the examination which a candidate goes through on these occasions?—No.

Supposing that the members of the University who compose the examining board, have no local knowledge of the parish to which the appointment has been made, do you think that is a deficiency in the knowledge which they ought to possess, to enable them to carry through the examination?—Under the old law

Dr. Knox.

the heritors had the power of saying what branches the candidates should be examined upon. I don't know if that is still the case.

But would not a knowledge of the particular parish, and of the class of scholars likely to attend the school, be of importance to enable the examining body to discharge their function properly?—I don't see that that is an important defect, if the electing body sends up the branches on which the examination is to take place.

Supposing one head of examination is Latin, without specifying whether it is merely knowledge of the rudiments or a more extensive knowledge that is required, do you think that is sufficient?—I think it desirable that, however small the population, and however rural it may be, there ought to be provision for teaching the languages. You may find a boy, whose parents are not able to send him to any other school than the parish school, who gives such promise that you may lose a very fine scholar unless he has the means of getting the necessary education at the parish or district school.

Suppose the information given to the examining body is, that the schoolmaster is to be examined in Latin, but without any statement whether he is to have an intimate knowledge of it, or merely to be able to teach the rudiments, do you think the examining body would be able to judge whether he was a proper person for that particular parish or not?—I don't know what the examining body does, but I have no hesitation in saying that the mere knowledge of the rudiments would never pass; he must know Latin.

That is to say, he ought not to pass?—If Latin were required, he would not pass, if I were an examiner.

Mr. Black.—You stated from your own experience that the children of all sects came to the parish school, and that no objection had been made to the religious teaching, except in one case: do you suppose that if schools were established on the national system, and there was no provision for a sectarian teaching or sectarian management, the children of all sects would not attend there?—I think they would.

Then don't you think it desirable to have a national system, so that all sects might sit on the same form, and be brought up together?—Do you mean by altering the parish schools?

Suppose a system were introduced by which the children of all sects could attend school, the management not confined to any particular sect, would that not be more desirable than the sectarian schools which exist at present?—I don't think you ought to sacrifice the good you have for the mere prospect of something equally good that you hope for.

Would not a national system be better than the denominational system which we now have?—So far as the denominational schools are concerned, I think you are right; but the parish schools are national schools.

Are they not under the management of the Established Church?—Yes, but that does not operate in keeping any denomination away from the parish school.

You think that the salary of the schoolmaster is not sufficiently high: might it not be increased by allowing him to teach the ancient or modern languages, to such scholars as might desire it, on payment of a certain fee?—That is done at this moment. The heritors fix different fees for Latin and the higher branches, and for English, arithmetic, etc.

Are there a good many who pay no fee at all?—There are not so many now; they are generally paid for, either by the Parochial Board, or from private charity.

Do they attend as regularly as those who do pay?—Yes; if they don't attend they are dismissed. There is a regular return made of their attendance.

Mr. Mure.—Under the system by which a different scale of fees is fixed for Latin and the higher branches, has it practically come to this, that—assuming the schoolmaster to be well qualified to teach these branches—the means of education of that higher description are within the reach of the parishioners?—Yes; I never knew it above 10s. 6d., and in general it is only 7s. 6d. per quarter.

That is the theory of the original parochial system of Scotland?—Yes.

And you believe it has been found to work well in that respect, from your knowledge of different parts of the country?—Yes.

Do you think if means were taken to secure the teaching of those higher branches of education to a greater extent than it is now, that that would so far supersede the necessity for middle schools?—The parish schools serve the purposes of middle schools as well as elementary schools just now.

Dr. Knox. — In the religious teaching of your school, you don't endeavour to inculcate Presbyterianism on the pupils, but simply the truths of Christianity in the most elementary manner?—Yes.

Without any reference to the denomination to which they belong?—Yes.

Is that the general rule?—Yes, so far as my experience goes.

Therefore, there is no denominational teaching, in that sense of the word?—No.

What number of pupils, in a parish school, can the schoolmaster overtake with ease?—100 is enough: I have had 160 in my own parish school, but I always kept an assistant at my own expense.

But the schoolmaster could overtake 160 by himself, with the assistance of monitors?—Yes.

Do you know whether most of the parish schools in Scotland are capable of containing that number?—From 100 to that number, unless in small parishes.

So that, if two schools are put down in a parish within 200 yards of each other, the one having forty pupils, and the other having fifty, would that not of itself look as if there were too many schools in that part of the parish?—Yes; and that would injure education.

I find from a return, that the two schools which you spoke of at Gargunnock are within 200 yards of each other, and that there are about ninety pupils at the two: are you of opinion that one school is quite sufficient there?—Yes; and it would give better education than the two schools give.

Would you be apprehensive that if a schoolmaster had the inducement of giving attention to the higher branches, he would be led to neglect the more elementary branches?—No, he would not.

Lord Belhaven.—You have suggested new schools, to be supported partly by a rate levied on the whole value of the parish or district, and partly by a Government grant: would you propose to confine these new schools to a particular parish, or would you give them a district?—I would give them a district; wherever they could manage a portion of two or three parishes, I would give them that district.

You said that the situation of the school might be decided on by a board: would a board composed of the Commissioners of Supply of the county form an efficient board?—That never occurred to me. I rather doubt it.

What sort of board would you have?—I would have a commission appointed in the same way as was done with the Universities.

But that commission could not sit for ever?—No; but the arrangements which they made would last for ten or twenty years, and then you could appoint a new commission.

But, in the great mining districts, schools are required almost every year?—The board in London might act in the interim between one commission and another; but it is scarcely fair for me to state my opinion on these points, because I have scarcely considered them sufficiently.

But they must be people who know the locality?—Yes.

Mr. Dunlop.—Supposing that a platform once were laid down by a Parliamentary Commission, might not the Sheriff be safely intrusted with the fixing of new districts?—Yes, I think so; he would have no interest in the matter, and he would do what the locality required.

You mentioned as a proof that the religious teaching in the parish schools was thoroughly well attended to, that you never knew an instance of a Presbytery making a complaint on that subject?—No, I never knew an instance of that.

To what extent do you think the fact of the Presbytery being in the habit of visiting the schools has secured that result?—I think it is public opinion that does it, and not the Presbytery.

But you attach great importance to the examination by the Presbytery?—Yes, because it is the only examination we have.

You attach importance to it as bringing public opinion to bear on the teacher, rather than from any authority which the Presbytery exercises?—When the school is successfully conducted, that is made known by the examination.

Then you value it as exercising a moral influence?—I have no doubt the presence of the Presbytery has a great effect in keeping up attention to the religious instruction.

Supposing different denominations could agree that members of their bodies should attend on these examinations, instead of a committee of Presbytery, would

the same result be attained?—I have not thought on that. I suppose clergymen of other denominations are present even under the present system; but in the new schools there would be no distinction, I presume. Dr. Knox.

You have stated that you would prefer the managing board of these new schools to be from the whole parish?—Yes.

I presume you also contemplate that the rate for the support of these schools should be extended over the whole parish?—Clearly.

You would levy it on all proprietors?—On all property.

According to the valuation roll?—Yes.

Supposing you succeeded in getting your maximum additional salary to the parish schoolmaster, would you propose to lay that on the whole property of the parish?—I would propose that that should remain as it is.

On the valued rent heritors?—On the valued rent only.

You said you think it would be right to have separate school districts?—To have separate schools for certain districts; it would depend entirely on the means of provision whether you would separate the districts or not.

Suppose you took in portions of different parishes?—You would place your school so as to suit the people of all these parishes.

Would you not have a separate school district, with a separate rate, in a case of that kind?—I have not studied that question.

How would you bring in the different parish boards to act together?—There would be a difficulty there; but I have no doubt it would be easily overcome.

The Lord Advocate.—What class of children attend your school?—The children of the smaller heritors, farmers, manufacturers, and all the labouring class.

From the highest to the lowest in the parish who are resident?—Yes; excepting the aristocracy.

Do you send the boys direct to College from your school?—Yes.

To what age do they remain with you?—If they are intended for College they remain till they are fifteen or sixteen; but there are very few of these.

And those who go to College are qualified to attend the Humanity classes?—Yes; and gain the prizes often.

How many go to the University, on an average, in the year,—two or three?—Not so many. But my parish is not a proper criterion, because I am close beside Stirling, where there is a classical school.

Is there anything else which you have to state to the Commissioners?—No; except that I think the burden should not be laid too heavily on the land. I may mention that the present parochial salaries amount over Scotland to £50,000. I have taken as a test schools in various districts of Scotland, and I find that in the Presbytery of Caithness, Chanonry, Chirnside, Cupar-Fife, Dalkeith, Deer, and Dingwall, there are 82 principal schoolmasters and 17 side schools, 2 female assistants, and 8 retired schoolmasters, and the whole amount of the burden is £4938; and as these Presbyteries amount to one-tenth of Scotland, the burden on the whole of Scotland would be £49,380. I also tried another district, including the Presbyteries of Dornoch, Dumbarton, Dumfries, Dunbar, Dunblane, Dundee, and Dunfermline, being about one-tenth of the country, and they contain 82 principal masters, 25 side schools, 3 female assistants, 2 male assistants, and 4 retired schoolmasters, and the amount of the salary there is £4836,—making the burden on the whole of Scotland £48,360. The average of the salary of the parochial schoolmaster was, in the first district, £52, 9s., and in the second, £51, 18s.

Mr. Dunlop.—You said that taking a certain percentage on the valuation of the parishes would be a good rule for fixing the amount of the salary?—Yes.

How would you do that consistently with your laying the burden only on the valued rent?—That is for the parish schools, and not for the new schools. For the new schools, it should in all cases be on the actual rent.

Mr. Davidson.—How many assistants have you in your school?—Just one; but I use monitors.

You said you had known 100 children in your school on an average: are they all there at one time?—Yes; there are at present in the male department upwards of 80, and in the female department upwards of 60.

Monday, 5th December 1864.

THE DUKE OF ARGYLL IN THE CHAIR.

W. S. WALKER, Esq.,—*examined.*

W. S. Walker.

The Chairman.—In the event of any change in the system of education in Scotland, and the general abandonment, over the whole country, of the Privy Council grants, would you be content, speaking on behalf of the Episcopal Church, to trust the education of the children connected with your communion to the parish schools in the country, and such schools as might be set up under the management of local boards?—No, I should not; and I don't think my communion generally would be content with that. According to the principles of the Episcopal Church, the matter of education is very much under the superintendence of the clergy, and, in order to teach our system, we consider that denominational schools, that is, schools entirely under our own control, for teaching our own formularies, are requisite.

When you say that that is the principle of the Episcopal Church, I suppose you simply mean that they would like to have an exclusive system of education connected with themselves: you don't mean to say that there is anything in the doctrine of the Episcopal Church which requires the education of the children in schools of their own?—It is consistent with the principles and practice of the whole body that the education of the children, and especially of those who have not parents sufficiently educated to take that matter into their own hands, should be under the superintendence of the clergy.

Just as it is the principle and practice of other Churches?—Probably.

Supposing the other Churches agreed to a common system of education, is there any reason why the Episcopal Church should object to it?—I think there is.

Why?—We hold that the teaching of our own Catechism is necessary. I may mention that the Episcopal Church Society, which has certain sums of money to give in grants to schools, make it a *sine quâ non* that the Church of England Catechism shall be taught in the school.

You look on it as essential that the religious instruction should be given along with the secular education?—We do.

Are you aware whether children of your communion attend the parish and other schools in Scotland, where you have no exclusive schools of your own?—They do.

Have you found any inconvenience from that?—Yes; the children grow up without any knowledge of the principles of their Church, and become lax members of it afterwards. They professedly belong to us, and yet they don't understand the principles of their Church.

They fail to acquire instruction in the peculiar tenets of your Church: is it not competent for the clergy of your Church to look after that part of their education?—In most of the cases to which your Grace refers, there is probably no Episcopal clergy near at hand. It is the want of the Episcopal school which sends them to the parochial school.

In your schools, do you give instruction to the children of other denominations who may attend them?—Yes.

Do you make any rule in your schools, such as is common in other schools, that to those who object to the religious instruction given in the school, secular education is given without their being obliged to learn the Catechism, or do you make the Catechism compulsory in all cases?—I cannot speak as to that with perfect knowledge, but I think in general the Catechism is taught to all the children. The parents are warned of it, and need not send their children to school unless they like.

Are you aware whether your schools are attended to any large extent by children of Presbyterian parents?—I believe there are some schools in which a considerable number are Presbyterians.

Then you would not be content to leave the question of religious education to the management of local boards, under a national system?—I think not.

W. S. Walker.

The Lord Advocate.—Are you satisfied with the present system of denominational grants?—As to that, I would say that my feeling, and I think the feeling common in my communion, is that we have absolutely no claim to State assistance at all: that so long as the State does not assist any religious body but the Established Church, we, as one of the Dissenting bodies in the country, can have no claim to assistance; but if assistance be given to other Dissenting bodies, we think we have a right to such a fair proportion as our needs may require; and with the present system we have had, I think, no ground of complaint. We have been dealt fairly and liberally by under it.

I suppose you see no other arrangement under which your denomination could take part in a general system?—I don't see how it could be done; and I would say further, that so far as the present parochial schools go, the heritors of Scotland have never complained, though they were Episcopalians, of the burdens thrown on them; but I think if there was a general assessment, they would have a right to some portion of that assessment towards those schools which they are compelled to set up for their own people, who cannot take advantage of the education afforded in the other schools.

It is for the Episcopalian heritors that you make that observation?—And also for those Episcopalians of the middle classes, who would come under a general assessment. They would be called on to pay for Presbyterian education, which their own people cannot take advantage of.

But at this moment the Episcopal heritors support the Presbyterian parish schools, and they have made no such claim hitherto?—No; because the payment which they have hitherto made has been one on which their estates were settled. It is of a similar description to the burden of teinds, and they do not look on it as one of which they have any right to complain.

That can scarcely hold, because teinds don't belong to a heritor unless he has a separate right to them; when the schoolmasters' salaries were increased, two or three years ago, that was nothing but an assessment?—I think those increases were of an equitable character. They were simply bringing matters into the state in which they had been before, taking into consideration the difference of rents, and the difference in the expense of living, and thus continuing upon the heritors the burden of maintaining these schools, which was originally laid upon them. The amount of the burden was a temporary arrangement, and it required to be renewed by Parliament on the lapse of a certain number of years; and the heritors never looked on the former arrangement as fixing the final amount which they would have to pay for that special object.

It does not make any difference in principle whether they pay twice as much for one parish school or for two parish schools?—It appears to me that there is a difference of principle, because these proposed schools are not of the same character as the schools which previously formed a burden.

But if they are substantially of the same character—if it is just an extension of the national system substantially on the same principle—a variance in the mode of management would not make a difference?—I don't dispute the right of Parliament to lay on a tax for that purpose. I merely say that we think we should then have a claim for assistance to our schools, in some shape or other.

Mr. Ramsay.—The deficiency of the religious instruction in the schools is one of the causes why you would not be willing to leave the education of the children of your communion to the parish schools: do you refer to the nature of the instruction given, or to a deficiency in its amount?—I refer to the difference of creed,—the difference of catechism.

There is nothing regarding any particular Church in the Shorter Catechism taught in the parish school?—I am quite aware of that.

Then it is not the nature of the instruction that you object to?—It is the nature of the instruction: teaching a Catechism which does not put the Episcopal Church in the position which we think it holds.

In what particular?—The whole system of Church government is essentially different.

But I do not understand that any system of Church government is taught in the Shorter Catechism?—That we should consider an omission.

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Then you don't think that error is taught in the Shorter Catechism?—Not at

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all; it is merely that the one educates a man for the one Church, and the other educates a man for the other Church.

Mr. Davidson.—I understand you would object to an extended system of education which embraced all the Presbyterian bodies, and gave the Episcopalians and Roman Catholics aid by Government grants?—No, I did not imply that.

I think you said that if there was an additional assessment,—a rate for a general system of education,—it would be necessary that the Episcopalians should get a share of it for their schools?—If it is public money that is given, I don't think it makes much difference whether it is part of a rate or a sum provided by Parliament.

If it was a rate laid on a parish for the maintenance of the national schools, you think the Episcopalians should get the benefit of a part of that rate?—Probably the most equitable way would be to apportion the assessment; but whether that is practicable or not, I have not considered.

Is not that what you said before?—No; I did not intend to specify assessment specially; what I meant was, that if provision were made by Parliament, in any shape, for education, which other Dissenting bodies could accept, I think Episcopalians have an equal claim to assistance.

Supposing that there was a system introduced by which all the Presbyterian bodies were taught in one school, you would not object to that, whether the necessary expense was defrayed by Government grants or by a rate, if the Episcopalians were assisted by grants from the Privy Council, as at present?—I presume you don't wish me to answer that question from the Episcopalian point of view. As a heritor and a Scotchman, I should say the question involves a great number of considerations, and it is impossible to answer it briefly. I think the question of school management is involved very much in whether we should be prepared to favour an assessment or not. If assessment implies different school-management from the present, speaking as a heritor, I should like to know what it is.

My question was this: Would the Episcopalians object to be left alone, receiving Government aid, as at present?—I think probably they might, because Government aid is at present hampered with a great number of difficulties, and probably the Episcopalians would desire to have it put on a more secure footing, and the system more adapted to the wants of the country than it is at present. They don't complain now, because they are on the same footing as others.

You mean as to the conditions on which the grant is given?—Yes.

Supposing these objections to be removed, the Episcopalians would not object?—I should think not.

Would you rather be left so, than combined with any other bodies?—As I said before, I don't see how that combination is possible: I don't see how such a scheme could be devised as the Episcopalian body could accept as a substitute for their own.

Mr. Cook.—You are secretary to the Board of Supervision?—Yes.

In that way you have occasion to see a good deal of the working of the parochial boards throughout the country.—Yes.

They educate the pauper children under their charge, as a general rule, as part of the relief given?—Yes; that is to say, they provide it, if the parents cannot provide it themselves.

Can you state whether much difficulty has been found by the inspectors, either in large towns or remote districts of the country, in procuring the means of education for poor children?—No; I think we have had no complaint of that nature since I have been at the Board of Supervision.

You have had occasional complaints from Episcopalians and Roman Catholics, of children being sent to a school that they did not approve of?—Of Roman Catholics, certainly; of Episcopalians, I only recollect one case, and I think it was a reference by a Parochial Board, who wished to know what their duty was. It was a case from the poorhouse at Jedburgh: the children were sent from the poorhouse to the schools in the town; and I think the question put to us by the Parochial Board was, whether they would be justified in letting the Episcopal children go to an Episcopal school. This was in 1854, and the deliverance of the Board of Supervision was this: "The Board are of opinion that the Parochial Board have no power to deprive parents, or a surviving parent, though a pauper, of the natural right to direct the religious instruction of their or her children; and unless there be reason to believe that the Episcopal school referred to is improperly conducted, which is not alleged, the Parochial Board ought to permit

the children in question to go to that school, in the same manner as other children, inmates of the poorhouse, are permitted to go to other schools in the town." W. S. Walker.

Mr. Dunlop.—As I understand, you consider it essential that the children of your communion should be instructed at school in the distinctive principles of your communion?—Yes.

Would you mention what these distinctive principles are, as contrasted with those of other Protestant denominations, in which you think it essential to have them instructed?—It is very difficult to specify particular points. I would refer to the Catechism and the Prayer-Book as showing our distinctive tenets.

Can you not mention shortly the principles which you would require to be taught?—The principles of Church government are different. Then there is the rite of confirmation, which we hold to be very important. I don't know whether I am right in saying that there is a difference in the doctrines of the two Churches with reference to the sacraments of Baptism and the Lord's Supper; many people think there is no difference; but, at all events, the doctrines are put in different language in the two Catechisms.

Is there anything in your Catechism about Church government?—It is a long time since I learned the Church Catechism, and I am not sure that there is; but the Church Catechism is taught in England, as well as here, with explanatory notes and amplifications.

You mentioned a society which made it a condition of any grants being given by it, that the Church Catechism should be taught in the school aided: is that a Scotch or an English Society?—A Scotch Society; it is the Scottish Episcopal Church Society sanctioned by our Canons.

Is there anything in the Westminster Shorter Catechism which you object to being taught to your children?—I cannot speak in detail with reference to the Westminster Catechism.

Lord Ardmillan.—Do you think that good would result from a provision, such as there is in the Factory Act, that children shall not be employed in public or other works, without some proof that they are educated to a certain extent?—I think that is a very difficult question, because, although unquestionably at present there is too great a tendency to take children away from school for the purpose of increasing the means of the parents, yet I always feel a dread of interfering unnecessarily with the ordinary rules regulating the supply and demand of labour. Whether it would be beneficial to make such a regulation imperative, is a question I am scarcely prepared to answer.

You are not clear that such a provision would be beneficial?—The rural population, I think, stands less in need of such a regulation than the town population.

But would it be desirable to check the employment of children in works of any kind, at a period when they ought to be learning at least reading and writing?—I think if such a check could be imposed without producing other evils, it would unquestionably be of great benefit to the children.

Have you found that the regulation has produced increased poverty, in so far as the Factory Act is concerned?—No, I have not had an opportunity of observing the operation of the Factory Act.

Don't you think you would have observed it if it had thrown more people on the poor's funds, in consequence of their losing the services of their children?—I scarcely think any facts that have come to my knowledge officially, could lead me to one conclusion or the other. It would require specific inquiry.

Mr. Dunlop.—Have you noticed whether the exercise of the power of Parochial Boards, to pay for pauper children, has in any degree affected the power of heritors to send children to the parish schools, free of all charge?—I am glad you have asked me that question, because the practice is various at present. Some Parochial Boards, I believe, are under a wrong impression, and the schoolmasters also, that the Parochial Board has that power which belonged, and still belongs, to the heritors and the minister. In the great majority of parishes, they don't take advantage of that power; the Parochial Board pays for the children in any school which the parent selects, provided the expense is not greater than the ordinary expense of education in the parish school, for that class of children. In other parishes, the heritors exercise their privilege, and the pauper children are sent to the parish school gratuitously. That, I have not the slightest doubt, is a most injurious practice: the children go there on a different footing from the others.

W. S. Walker.

You would rather see that old power superseded entirely by the exercise of the Parochial Board's power of paying for them?—Clearly.

The Chairman.—Are not the objections which you entertain to the extension of the principle of the Factory Act, with reference to the employment of children, precisely the same objections which were always taken to the Factory Acts before they were passed?—With this difference, that in the class of people to whom I referred,—the general population,—there is not the same tendency to do injustice to the child by sending it to too engrossing a work too early in life.

With reference to all occupations in cities, where it is the practice to send children early to work for the sake of getting their wages, do you see any objection, in point of principle, to the application of the clauses in the Factory Act, to them?—If there was a careful limit as to age, probably it would not have any evil effects; if the limit were such as simply to exclude the employment of those children, whose exceeding tender years made it extremely undesirable, on all grounds, that they should be employed.

Don't you think, in the country, there is a temptation to keep children from school, for the sake of employing them in industrial labour?—I don't know that there is. The ordinary practice is, that after the child is of age to earn something, he goes to work in summer, and to school in winter. That has worked very well. The class of education, which they get most beneficially to themselves at the school, requires rather to be carried on by practice at home than by further teaching. Of course, I don't refer to anything like classical education.

As a heritor, what is your view of the principle on which the parochial system of education was founded in Scotland: do you not conceive that it was intended to be a national system embracing the whole people, and paid for by the owners and occupiers of property throughout Scotland?—Yes.

It was not intended to be a burden solely on the proprietors of land, but also on the occupiers?—Yes.

It was intended practically to be a national system. Now if that principle were extended, taking into consideration the increase of the population and the comparative deficiency of schools, and an additional assessment on the same principle were put on the same people, do you see any ground why special exception should be made in favour of the Episcopalian communion, or any other?—The difference is this, as it appears to me, that the original intention was with reference to a people united in one communion. That was the expectation which was at the foundation of the scheme; and then, of course, there could be no hardship in the whole people paying for what the whole people were to benefit by. But matters are not in that condition now, and therefore the principle does not carry one down to the present state of things.

But do you object on principle to the members of one Church being assessed for the support of schools which educate the children of other denominations?—I think the State has to do with the State religion, and that it is bound to provide for that. When it goes beyond that, I think the State ought to do for all Dissenting bodies what it does for one of them.

Then you are in favour of maintaining the denominational principle of education,—extending it beyond the pale of the parochial schools, by assistance given to the different Churches?—The opinion I expressed was rather a relative one than a positive one; and I did not mean to express an opinion for Presbyterians, or for those who can unite, that a denominational system is the best. But I would say this, that so far as my own experience has gone, the present system, or want of system, has worked practically very well indeed in the rural districts; I don't speak of the large towns. The denominational schools have given an impulse to each other,—have acted and counteracted beneficially in many cases, I think.

And you think that, though conducted on a denominational principle, the system has not been conducted on a sectarian principle?—In some cases it may; but in my own parish, which is a long narrow parish, there is a flourishing parochial school nearly in the centre of it, and alongside there is a very large and flourishing United Presbyterian school; and I am quite certain that the parish school could not hold all the children so as to be properly taught under one teacher; if the United Presbyterian school were to be taken away, the parish school would not be sufficient. There are also two side schools, one four or five

W. S. Walker.

miles up the valley, and another four or five miles lower down ; and these, with the girls' school in the village, supply pretty well all the educational requirements of the parish.

The Lord Advocate.—Do you think the Board of Supervision is in possession of statistics from which it would appear what education is possessed by pauper children when they cease to be on the roll ?—We have not that information.

Do you think it could be obtained ?—I think we could obtain it from some of the larger parishes, whose records are kept more accurately than the smaller ones.

Could you obtain returns on that subject, with reference to the capacity of the children to read and write ?—I shall endeavour to do so ; and I can also give the ages at which they leave school.

Mr. Davidson.—Do you think the parochial boards discharge their duty well generally over the country, in regard to pauper children, in the matter of education ?—I believe they do fairly. I should mention that the Board of Supervision have only indirect means of ascertaining the condition of matters. We hold that education forms part of the provision which the parochial board is bound to make for a child ; but it does not matter whether the parochial board pays the parent a sufficient sum to educate his children, or provides education in addition to the money allowance. We have no power of direct interference ; it is only on the complaint of a pauper of a failure on the part of the parochial board, that we have a right to interfere. I am speaking from those instances which have been brought to our knowledge, and they have been very rare.

The Lord Advocate.—I want to ascertain from you the principle on which you object to the extension of the parochial system, which is not confined to the National Church ?—But it is in connexion with the Established Church.

The schools are managed by the heritors of all denominations, and the minister of the parish, and the schoolmaster may be of any denomination ; therefore it is not exclusively confined to the Established Church ?—No.

Do you object to that system as it stands,—do you think it unjust to tax the heritors of other denominations for that system ?—The small step taken a few years ago may be extended so as to make the breach greater.

Do you think that at present it is just or unjust ?—I don't think the present system is an improvement on the old ; but I did not object to it.

Do you think the present state of matters gives rise to a claim on the part of Episcopalians ?—No.

Sir J. Fergusson.—What means are taken by the managers of the poor for the education of Roman Catholic children ?—The Board of Supervision have intimated their opinion, that if there be a Roman Catholic school, the parochial board are bound to pay for the education of these children in that school, in preference to the parish school.

Have any complaints been made to the Board of Supervision of the proselytizing of Roman Catholic children by Protestant teaching ?—There have.

Did the Board ascertain that there were good grounds for these complaints ?—No.

The Chairman.—In no case ?—There was, I think, only one case in which the Board were satisfied that the facts complained of had taken place for the purpose of proselytizing.

The Lord Advocate.—There have been one or two rather anxious inquiries into that ?—Yes ; most of these complaints were made with reference to children after the lapse of a considerable number of years, and when the process, whatever it was, had been long going on, and when it was in some cases not easy to ascertain what the religion of the parents had been. There is a blue-book on that subject.

The Chairman.—Have the objections generally come from the parents or from the priests ?—Generally from the priests.

Do you recognise the same right on the part of the priest that you do on the part of the parents ?—I am not prepared to say that the Board have recognised that right.

In the rules of the Board it is the right of the parents that is recognised ?—Yes.

There is no official recognition of the right of the priest to interfere ?—No. When a complaint is made of improper conduct on the part of a parochial board

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the Board of Supervision investigate it, whoever the complainant may be. They deal, therefore, with the complaint of the priest, if made, as a complaint on the part of the public, which they are bound to inquire into.

Mr. Dunlop.—You say you consider the present parochial system was established with a view to a united Presbyterian population?—A population in one communion.

Do you consider that in 1696, when the first legal establishment of parish schools took place, or shortly after the change from Episcopacy to Presbyterianism, the proportion of Episcopalians was much smaller in Scotland than it is now?—No; but I suppose people were sanguine in that century, as they are in this, and looked upon it as a likely thing that the whole population would be united. I don't think that at that time any one contemplated the divisions which now exist with reference to different denominations. I have always understood that it was considered that the parochial system was a part of the established system of the Church. Until very recently it was entirely under their control.

Mr. Mure.—At that time, in point of fact, there were a great many Episcopalians in Scotland?—There were; but I believe it is also a fact that at a great deal later date than that, in some of the north country schools, the Church of England Catechism was taught in the parish school.

The Chairman.—Did I understand you to say that you thought that any system of religious instruction would be a wrong system, in which children of tender age were not instructed in the difference of Church government between Episcopacy and Presbyterianism?—My opinion is, that in the religious training of children it is essential to begin from the very first with the system to which you mean the child afterwards to adhere. I think that is the view of the Church to which I belong. It founded not very long ago a school for its upper classes on that very principle, placing it under the control of the bishops of the Church, with clergymen of the Church as teachers, where there is daily service, and the children are brought up in the distinctive tenets of their Church from the earliest age at which they go to school.

I was not aware that it was part of your system to teach children the principles of Episcopalians, as distinguished from Presbyterianism?—In Dean Ramsay's Catechism, which is used in many of our schools, there is a chapter devoted to that subject. Of course, the very young children are not taught that; it is used for the more advanced classes, but it is a portion of the same book.

Then, in the Scottish Episcopal Church, the Catechism used in it is different from the Church of England Catechism?—No; it is the Church of England Catechism enlarged; and I believe in almost all the elementary schools in England the same rule is followed.

And some of these enlargements are directed to the question of Episcopacy specially?—Yes; in Dean Ramsay's Catechism that is the case.

You are aware that no practice at all analogous to that is pursued in the parish schools, or other Presbyterian schools of Scotland: that there is no catechism used which inculcates the principle of Presbyterianism as distinguished from Episcopacy, or which directs itself to the question of Church government?—Perhaps. I ought to have looked at the Shorter Catechism before I came here.

Speaking as an Episcopal heritor, would you not rather object to the introduction of a catechism specially teaching Presbyterianism in the parish schools of Scotland?—Not in the parish schools. The same feeling which would make me desire to see a definite catechism taught in the Episcopal schools would make me desire to see a similar catechism suited to Presbyterians taught in the parish schools.

Would it not tell injuriously on the interests of your Church?—I don't look to the parish schools as intended for my Church.

But you look on them as intended for the mass of the population?—For the mass of the population who are Presbyterians; but I presume I am not in error in supposing that Presbyterianism is taught in the parish schools, whether it is done from a catechism or not.

How do you define Presbyterianism?—There is a Presbyterian definition of the word "bishop," and there is an Episcopal definition of it: when the Presbyterian teacher comes to that word in his Bible reading, I presume he gives it the Presbyterian explanation.

Have you ever heard that there was any catechism drawn up on that subject?—No; but the two communions interpret the word differently.

RIGHT REV. BISHOP WORDSWORTH,—*examined.*

Bishop Wordsworth.

The Chairman.—To what part of the heads of examination do you wish your evidence to be directed?—I have no wish to offer any remarks except upon the second general head, viz.—"Whether any plan of a more uniform and national character, based upon an extension of the existing parochial system, or otherwise, and better fitted to overtake the educational wants of the country, could be substituted for the Privy Council grants?" Referring to that head, I am of opinion that a plan of education of a more uniform and national character, and without further dissociation of the schools from the existing parochial system, might be substituted with advantage for the present plan. I think that in this country there is, or ought to be, less occasion for a denominational system than in England. I consider that the present plan—I mean the plan of the parochial schools—is denominational to a certain extent, supposing the Shorter Catechism to be taught in them, though I believe this is not now absolutely binding; but then still less is any other catechetical teaching binding, or, I suppose, allowable. And in either of these cases—that is, the requirement of the Shorter Catechism as it stands, or the absence of all catechetical religious teaching—the school would be unsatisfactory to me, and, I imagine, to other Episcopalians. And in the latter case—the absence of all catechetical religious teaching—I must add, it *ought*, I think, to be unsatisfactory to the country generally; and I have little doubt that it would be so. My reasons for this opinion lie deep in the history of the past. To sum them up in one word: the supposed step would, in a religious point of view, be a retrograde one, tending towards the unbaptizing of the nation as a Christian people. I hold that it is the duty of the State—based upon the principles of politics such as Aristotle and Plato recognised, and upon the express precepts of the gospel—to see that the Church which it has established educates those of its children whose parents require such help, and educates them religiously; and when its Established Church is no longer in a position to do this effectually, then to take the next best step for securing the same end; and the next best step in this country, under present circumstances, seems to me to be a comprehensive system which shall unite the Established Church with other religious bodies in the matter of education. I assume, then, that catechetical religious teaching is desirable; and I would make it compulsory upon all schools, and upon all the children who attend them.

The question next arises, what this teaching is to consist of. I do not think that any fair objection could or ought to be made, under all the circumstances of the case, to the teaching of so much of the Shorter Catechism as would comprehend the Ten Commandments, with the explanations (Questions and Answers 39-81); the Lord's Prayer, with the explanations (Questions and Answers 98-107); and the Apostles' Creed, which is appended to the Catechism. This would amount to about one-half of the whole (51 out of 107 Questions and Answers), and would still be much longer than the Catechism of the Prayer-Book. In this suggestion there are two points which appear to me to deserve consideration. One point is, that the catechetical teaching of Christianity has been always based upon the Apostles' Creed, the Ten Commandments, and the Lord's Prayer; and has been, for the most part, content with these as furnishing an elementary summary of Christian instruction. The other point is, that the Shorter Catechism has been objected to, even by its greatest admirers (*e.g.* by Neal in his History of the Puritans) as "too long," and as, in part, "of too elaborate and technical a cast for the instruction of mere children." The parts proposed to be omitted in this curtailment would be those which, however they may be valued in other respects, and for older persons, fall most plainly under the latter description. It is also to be considered that, for those who would regret the proposed curtailment, there would be a compensation (in comparison with the existing law, which merely forbids the teaching of anything contrary to the Shorter Catechism), in the suggested requirement that so much as is specified of the Shorter Catechism, every schoolmaster shall be bound to teach. May I mention, by the way—what scarcely comes, perhaps, within the scope of the present inquiry—that I think it would

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be a great blessing to the country if singing also, and especially the singing of Christian hymns such as all denominations would approve of, were made a necessary branch of education in all schools. If I am not mistaken, this is done very commonly in Germany. The election of schoolmasters might remain upon its present footing, without the requirement of a denominational profession; but I think it would not be too much to demand, that every candidate for the office should promise to teach, "willingly and *ex animo*," those elements of Christianity which the children would be required to learn. I consider it extremely desirable that such a plan as I have ventured to sketch should be carried out, if at all, with as little violence as possible to the existing parochial system. I would suggest, therefore, for the management of schools, a parochial or local board, constituted as follows:—One of the heritors, elected either by the heritors themselves or by the other members of the board,—chairman; Established minister, *ex officio*, vice-chairman; ministers of other recognised denominations; two laymen of the Established Church; one from each of the other denominations. In places where there are no heritors, one of the lay members of the board might be elected chairman. I offer no opinion as to the necessity of further control to be exercised by a central board. Probably inspectors might be armed with sufficient powers to secure regularity and efficiency of management. In populous or extensive parishes, there might be more than one school under the same management; and thus the existing denominational schools might be made of use.

The effect of what I have suggested upon training institutions, would probably be, that each denomination would continue to train masters; and this, from the competition which it would excite, could scarcely fail to prove even more advantageous than the present system, in tending to secure good and able teachers.

Let me add, that the method which I would recommend of dealing with the Shorter Catechism, on the part of the State, for the common good, would be somewhat similar in principle to that which has been adopted by the Legislature in other instances, and especially in the Toleration Act of 1689. The only exceptions from the Toleration Act were Romanists and Unitarians. Dissenters in England have been allowed to make exceptions to certain of the Thirty-nine Articles; and their subscription has been received with these exceptions. I ought not to disguise that exception is taken by us, and I believe also by some other Protestant religious bodies in this country, to certain portions of the Shorter Catechism, sufficient to prevent our joining in schools where it is taught entire; and, fortunately, it so happens that the parts which we consider the least sound, are also those which would be generally considered least suitable for the teaching of the young.

What articles of the Shorter Catechism are these?—Effectual Calling, Adoption, and Justification—Questions 31 to 35; and more particularly the 7th and 8th, as to the Decrees of God. Moreover, I have reason to know that many Presbyterians would not be sorry not only to see their school Catechism shortened, but to find it relieved from some of the teaching which, according to the curtailment I have spoken of, would disappear from the national schools, and be reserved for such purposes and occasions as the denominations which have adopted the Catechism in question might see fit. I take it for granted that the general religious instruction of the school would be further secured and supplemented by the minister of each denomination seeing and instructing his own portion of the scholars, at least once a week, in the Sunday school, or otherwise. They would thus receive any more definite and distinctive teaching which might be considered necessary. In our own case, as Episcopalians, this would also be done in preparing them for confirmation and first communion.

I earnestly hope that in making the remarks now offered, I shall not be thought presumptuous. Had the parochial schools been allowed to remain upon the footing on which they stood before the last Act, or had there been any reasonable hope of the Established Church being able to recover that footing for its schools, I should have deemed it unbecoming to suggest to your Lordships the proposal which, through your courtesy, I have been allowed to make. It is tendered with no other view than that of assisting, if it may be, to maintain the cause of the Christian education of this country, or at least, to check its decline; and it is based upon the principle that a national system, in our present circumstances, will be the best, provided always that it be as thoroughly and truly Christian as our unhappy divisions in religion leave us room to hope for.

Bishop Wordsworth.

You have stated your opinion to be, that catechetical teaching ought to be imposed by Act of Parliament?—I do think so, provided the State is to take the question of education into its own hands, and out of the hands of the Church.

I mean, in the event of a national system being adopted for Scotland, you would insist on catechetical teaching being provided by Act of Parliament?—Yes.

You would not be content with limiting the religious instruction to the reading of the Bible, or teaching by the master from the Bible?—No, I would not.

Did I understand you to say that you would also insist on that catechetical instruction being given to all children without exception?—That is what I should certainly wish to see done myself, and what I think it would be right to do.

Do you disapprove of the practice, which seems universal in the parish schools, and in almost all the Presbyterian schools in Scotland, of allowing children whose parents object to the religious instruction which is given, to take the secular instruction, without compelling them to learn the Catechism?—I think, in legislating with a view to the permission of that practice, you would encourage the spread of it. If you find that the bodies that stand out are so numerous that the State in equity ought to have recourse to that arrangement, I am not prepared to say that the State would not properly do so; but from our experience, I think, putting that option before parties has a tendency to un-Christianize education. We find in many of our schools in which the larger proportion, I should think, are Presbyterians, that there is very little question made even as to teaching our Catechism; and therefore I should not like to put before children the option of not being taught God's Commandments or the Lord's Prayer. I hope the State has not come to that yet, and I trust we never shall come to it.

Don't you think that such an option has frequently the tendency of inducing parties not to press their objections?—My experience is the other way. I think parties are more likely, in the natural independence of the human heart, to say, "If we have this option, we will take the religious instruction into our own hands, and let it shift for itself." If you put it to people who have no sufficient ability to deal with the question, and are not competent to form a sound opinion upon it, you may do harm in many cases. I don't think that at present there would be any tendency to keep out of such a system of religious teaching as that which I have ventured to recommend, if made compulsory upon all. Romanists perhaps might object to it.

That is practically the rule which has been adopted by direction of the General Assembly in the parish schools, especially with respect to Roman Catholic children,—that they are allowed to take the secular instruction without the Catechism being taught them?—I was not aware of that.

You don't disapprove of that?—It would depend on how far it would weaken the whole system. I feel very strongly the importance of the State holding a position of authority with reference to what it does, especially with regard to religion. I think the State, in this country, is in a condition to deal with authority, especially as to its poorer subjects. In regard to Romanists, the case may be different; but if you ask me whether I think that would be a desirable principle to introduce into a great national scheme, I must say I very much doubt it, because I believe it would have an injurious tendency on the whole. While it would seem to be tolerant and liberal, there would be a very considerable deal of harm done.

Do you think, looking to the present composition of Parliament, and the state of opinion as to religious liberty, that it would be possible to get an Act of Parliament enjoining the catechetical teaching of any particular Catechism, without a clause exempting the children of parents who objected to it?—I am not competent to judge; but I think, with reference to this country, it would, because the impression is general in England that in this country, though our divisions are greater than in England, there is nothing substantial about them, and that they turn on Church government and patronage, etc., which catechetical teaching, such as I have proposed, does not affect in the least. I don't think there are any just grounds for it, except perhaps in the case of Romanists and of United Presbyterians, if they decline State aid.

You said that many Presbyterians think that the Shorter Catechism might very well be shortened: do you think it probable that an Act of Parliament could define the points to be omitted or retained, which would be in fact Parlia-

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ment drawing up a new test?—I do think so, if the thing is put before them properly. The parts which would be included are parts which all Christians recognise as the fundamentals of their religion,—the Commandments, the Lord's Prayer, and I believe we may add the Apostles' Creed. Of course, I balance this against the existing system, which is evidently giving way. Nobody knows what the loss to religion and to education in general will be from the recent Act; but in ten or twenty years schoolmasters will find out their power under that Act, to an extent which no one has any idea of.

You don't object to the Shorter Catechism as anti-Episcopal as regards Episcopalians?—No; if I had drawn it up, it would not have been drawn up in the same way; but to secure that the religious instruction of the country should not be further broken down, I think all denominations, ourselves included, would do well to concur in the plan which I have stated.

Omitting the particular articles which you have referred to, you are prepared to recommend the remainder of the Shorter Catechism as a good manual of religious instruction?—Yes; sufficiently good under the circumstances of the case.

And you don't insist upon teaching in schools the distinctive principles of Episcopalianism or of Presbyterianism as to the matter of Church government?—We don't do it at present in all cases; it is not done in England by the Catechism of the Prayer-Book. It is what every clergyman ought to do in preparing candidates for confirmation, and in advanced classes in Sunday schools.

Even the special instructions in the tenets of your own religion you would leave to the clergy and the Sunday schools of your Church?—Yes.

I think you suggested a constitution for the local board: do I understand you to mean that you would not be satisfied with a national system which should leave the selection of the local board to the ratepayers,—do you insist that the Act of Parliament should define the board?—That is a question which others will be able to answer better than I can. I do not profess great practical acquaintance with the working of the present system. I only suggested what I did as securing, I thought, a fair basis. I wish that the Established Church should have its rights; and it would have a better position than it has at present, in the Established Church minister being *ex officio* vice-chairman; and I think it would be quite right that other ministers should be on the board, inasmuch as their own children are at the school. I also think it highly desirable that the business part of it should be mainly in the hands of the laity, and that a layman should be at the head of it.

Then you don't say that the constitution which you have suggested is the only proper constitution of the board?—Oh, no.

Would you be satisfied with a measure which would leave the board on the basis of its present constitution, the heritors and parish minister *ex officio* being members, and the remainder left to the election by ratepayers?—I think it would be very important to have each religious body represented by a minister and a layman. You would not have that if it were left to the ratepayers; they might elect all the members from one particular body. The school would not then work fairly or well; but this sort of balance of power would sufficiently secure the efficiency of the school.

Do you contemplate the Act of Parliament specifying not only the Established Church minister and heritors as members, but also the other denominations who shall be represented?—It would depend on the amount of concurrence you are likely to get for such a measure. If you get the concurrence of the different religious bodies, I think it would be a satisfactory arrangement.

You think it is an arrangement which would pass this Parliament?—If there was no strong opposition from the religious bodies, I don't see why it should not. Unless objections to it were urged *ab extra*, I don't think Parliament would trouble itself about it.

Supposing such a system to be sanctioned by Parliament, would you be willing to give up the denominational grants in aid which you receive?—I should for my part; but not with reference to the training school. My recommendation to our body, would be to drop the other schools and join in a national system. But I think it is very desirable that all bodies should get the best schoolmasters trained.

That is a matter for each communion?—Yes.

But you are willing to give up the ordinary congregational schools, and the grants in aid in connexion therewith?—Yes.

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Supposing that such a national system as you have sketched out is impossible, in respect that catechetical teaching could not be imposed by Act of Parliament, and that even if it were, there must be a conscience clause allowing children to take the benefit of the secular instruction alone, would you prefer the continuance of the present denominational system rather than see such a system adopted?—One can hardly tell what the present denominational system is. I don't think it will last long. I have no hope of its getting better, and I should fear that it will become worse, for the Establishment, and that I should very much regret. I should very much regret to see anything more done in this country to weaken the power of the Establishment, or to weaken the power of the parochial system. I cannot think that the present system can be satisfactory to the Establishment. I don't see that they have sufficient power over or connexion with the parish schools. Unless I knew exactly what the existing denominational system is, I could hardly balance the one against the other.

Suppose that a national system is adopted which shall be without the religious clauses that you dwell so much upon, and which shall leave the whole question of religious instruction to local parties represented by ratepayers, would you be so hostile to such a system as to prefer very much the continuance of the special grants and aid to the various religious denominations?—Yes, I must say, I think I should. Practically, I don't think it would last long; but I could not, with a safe conscience, recommend a step of that sort in a country which has been a Christian country so long, with its religion recognised by the State, and bound up so thoroughly with the history of the State.

What is your opinion of the urgency of any change: do you think that in respect of its not reaching the mass of the people, the present state of matters calls for reform?—I think it is in a state calling for reform. I believe there are schools more than enough at work, but I doubt whether they reach the people in an effective way.

What is the main ground on which you recommend so extensive, and, in many respects, so liberal a change as you have suggested?—I *want* to see Christians brought more together for one thing. I think it is very strange that young people should not be sent to the same school, because their parents happen to have differences of opinion. Then, I suppose the object of this Commission is to spare the country expense, and I imagine that very considerable expense might be spared. I don't see the object of having three or four denominational schools assisted in many parts of the country.

You think that is superfluous?—Yes. I think we may claim assistance in equity, as things now are, but if we can have an arrangement which will tend to improve the Christian condition of the country, we ought to be thankful. I surrender all denominationalty, so to speak, as far as we are concerned, with the view of saving the religious instruction of the country generally.

You don't think that though the present system is denominational, it is practically conducted in a sectarian spirit?—I should not think it was; but I have very little means of judging. I don't think it is, so far as we are concerned; and I don't think it is, so far as the parochial schools are concerned; but no religious instruction is required now, under the late Act, in them, and the schoolmaster may believe anything or nothing.

You said, as regards your own communion, that it is not conducted in a sectarian spirit,—I suppose you mean in a proselytizing spirit?—We generally require our Church Catechism to be learned, which certainly introduces the young to the Prayer-Book, and has the effect of rather inclining them to us.

But there is nothing in the Church Catechism taught in your schools, which is specially Episcopalian,—there is nothing about Church government?—No.

We have had some evidence as to the use of what is called the Church of England Catechism, with notes and comments as to the Episcopal government: is that generally introduced into your schools?—There is in all our schools something beyond the Church Catechism; or, at all events, instruction is given which goes beyond the Church Catechism.

But you are content if you get such a system as you would approve of, to trust to the influence of your clergy over the people of your communion?—Yes.

Since you have had an Episcopal charge in Scotland, have you given your attention much to the mode of conducting education in other schools than those of your own communion?—No, I cannot say I have.

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Then you have no personal or detailed knowledge of the state of education?—No, I know little except what directly concerns myself and my own diocese; and there the numbers certainly are remarkable, considering what a small body we are. In my diocese we have now ten schools, with upwards of 1000 children, not including Sunday schools, and yet the total number of souls in the diocese is only beween 4000 and 5000.

But a great number of these must be Presbyterian children?—Yes; and that shows that though our schools may be called denominational, they are contributing something to the education of the country.

Do the parents of these children, or the children themselves, ultimately join your communion?—Indirectly, I have little doubt, our schools have some effect in that way, because they give the clergy access to the parents; but I doubt whether they have much effect on the children themselves; and I don't think we aim at separating them from their parents. Our Churches are very small, and there is no provision for children attending them.

Are these schools in connexion with a particular denomination?—They all are.

The Lord Advocate.—You would be satisfied, I suppose, if you could secure the teaching of the general fundamental tenets of religion, as set out in the Shorter Catechism, including the mere doctrinal questions which you alluded to?—I would not put it in that way, as mere doctrinal questions, because they might come in under the Lord's Prayer.

I refer to such questions as Effectual Calling: your object would be to secure that the teaching in the schools should be consistent with, and on the footing of, those elementary principles of Christian doctrine?—Yes.

Do you know whether at this moment the teaching in the parochial and other Presbyterian schools is not substantially what you would wish to see?—I am afraid it is not. I was told so last week by a highly-respected Presbyterian minister, who is said to be well-informed about the working of the Presbyterian schools. I made a point of asking him whether that was done, and he said it was not; that as far as he knew, they always went through—straight through—the Catechism; and he seemed to regret it. He said that many of the children left school before they came to the end of it, and they did not come perhaps to the most important part of it; but he added he did not think that he himself, much as he might wish it, was at liberty to do otherwise.

To what extent do you think your communion would be inclined to acquiesce in such a plan as you suggested?—I have no means of telling that; for I cannot say that I have consulted other people.

You see nothing in what you have sketched, which, according to the standards of the Episcopal Church, your communion might not acquiesce in?—I think it would be very unreasonable if they did not; but I cannot tell what some might do.

Mr. Ramsay.—Is the Catechism taught in your schools that which is contained in the English Prayer-Book?—Yes.

Is it indispensable that all the pupils shall commit it to memory?—I believe there are one or two exceptions; but it ought to be done, and we may be said to require it. I believe the Church Society requires it absolutely. There is a law that they shall not have aid from the Church Society unless they teach the Catechism.

And the children of Presbyterian parents could be rejected if the parents objected to that part of the instruction?—Yes; I imagine if their parents said they objected; but I believe that scarcely ever occurs.

I understood you to state, that you do not know whether Episcopalians generally in Scotland, would concur in a national system, under which the instruction given was confined to those parts of the Shorter Catechism of which you have expressed your approbation?—I can only hope they would; and I think it is likely.

But you have no reason to know that they would?—No; because my proposal has not been ventilated in any way.

Mr. Cook.—Would not your plan of catechetical teaching involve the preparation of substantially a new catechism for the use of schools?—No; it would be merely so much of the Shorter Catechism as contains the Commandments, the Lord's Prayer, with the explanations, and the Apostles' Creed. There is no explanation of the Apostles' Creed in the Shorter Catechism; it is merely appended as a venerable formulary.

Would you not require to print for the schools those portions of the Catechism

which are to be used?—Yes; they would require to be printed separately, and the questions numbered afresh. Bishop Wordsworth.

To what authority would you intrust the preparation of such a print?—I should think it highly desirable if the different religious bodies concur in the scheme, that some one or two leading persons among them should be appointed to put it into shape. I don't suppose it would do to empower any body of men appointed by Parliament to touch the language of the Catechism. Some persons might prefer the whole Catechism, and we do not interfere with their doing so; but for practical purposes in school, I should like only the most important parts to be taken. Many children may have learned a great deal about Election and God's Decrees; but they have to leave school before they come to the Commandments.

Who would the leading persons whom you propose to intrust with this duty represent?—That would depend on the number of religious bodies likely to concur in the plan.

Would you leave it to persons representing all the different Churches in the country?—I imagine so.

Do you think there is any probability of agreement between them as to the parts of the Catechism which should be omitted?—I think if they selected the Commandments, the guide of life—the Creed, the guide of faith in fundamentals—and the Lord's Prayer, the great instrument of obtaining grace,—that would satisfy all reasonable people; at least I hope so.

Mr. Mure.—You seem to be under the impression that the existing regulations under the Act of 1861, are merely negative as to the teaching of religion; that they merely require the schoolmaster to teach nothing inconsistent with the Shorter Catechism?—I fancied so.

We read it that he is "bound to conform to the Shorter Catechism" in his teaching?—But that would not oblige him to teach it catechetically; and I think catechetical instruction is most valuable. It implies that the child is to learn something by heart in answer to a question put in a formal way, which the person teaching is not at liberty to change. That secures *pro tanto* a definite question and a definite answer. The teacher may imagine that he is conforming to the requirement of the Act, when he teaches something which we would rather he did not teach.

But, in point of fact, the obligation is at this moment that he shall conform to the Shorter Catechism in teaching a school?—I don't think you could dismiss a master for not teaching the Shorter Catechism, under the words of the Act.

Would you be satisfied with a declaration that he shall faithfully conform to the Shorter Catechism, and teach the same catechetically in the school: would that be an obligation on him so to teach the Shorter Catechism?—I think that would be clear.

Then, according to the scheme which you have suggested, it would be a declaration that he would conform to the Shorter Catechism, and teach the same catechetically, with the exception of the questions to be omitted: would that satisfy you?—"Conforming to" the Shorter Catechism seems an unfortunate expression. We conform to a Church, or to certain practices; but what is meant by conforming to a Catechism, I cannot tell.

I understand that you want the word "catechetically" in?—I want every master to teach so much of the Shorter Catechism; and if he does so, he must teach it catechetically. Catechetically merely means teaching by question and answer.

The Chairman.—But you wish the Act of Parliament to indicate the parts that are to be omitted?—The parts that are to be taken.

Lord Polwarth.—That would imply that the whole of the Shorter Catechism which is to be taught should be enacted in the Act?—Yes; so many questions and answers. It might be put in this way: so much of the Shorter Catechism as contains the Commandments, with the questions and answers upon them, the Lord's Prayer, with the questions and answers upon it, and the Apostles' Creed.

Do you not think that the supervision which the clergyman and heritors still have in the parish, and particularly the clergyman and the Presbytery, is of considerable importance as it exists at present?—Not as it exists by law. It exists by a sort of *vis inertiæ;* but many Presbyterian ministers that I have spoken to, are under the impression that it gives them no power at all, and that they could not interfere with the religious or other teaching. The gentleman to

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whom I have already referred, and who is one of the best-informed persons in my neighbourhood on these matters, told me that his impression was that he had no power whatever to interfere.

You think the power is taken away from the Church, of ascertaining that religion is taught on a certain footing?—Yes.

You would restore that power to a certain body?—Yes.

That body to be composed of clergy of each denomination?—I suppose there must be some sort of selection made by the State. It would not do to descend to those who had not a certain number of adherents.

Is it not somewhat difficult to the Legislature to define the different denominations which should have the power of regulating the religious teaching?—At present we, and I suppose others, are recognised by the State as distinct bodies, in sending out forms or orders of prayer on special occasions.

That is not done by Act of Parliament?—It is done by the Queen in Council.

Supposing there was in a parish a denomination with a very small school and very few adherents, would you give it an equal power with the others, or how would you define the clergy in each parish who were to have a voice?—We can see the number of adherents, and generally, what the influential religious bodies are in this country, and in the collision of whose interests this inquiry is going on. It would depend upon the number of the congregations, and partly upon the number in each congregation.

Would you introduce Cameronians, and other similar bodies?—I should not have thought there was any necessity for taking them into account.

Would you admit a Jew?—The Jews, I believe, are not excluded from help now; but I don't think they would be entitled to a voice in the board. I think it is understood that the leading bodies in this country are the Established Church, the Free Church, the United Presbyterian, Episcopalians, and Romanists; and the Episcopalians and Romanists, not because of their large numbers, but because of their influence.

Are these denominations to be mentioned in the Act?—I suppose it must mention them. The country recognises them very distinctly, and they are fully organized bodies.

Do you anticipate that a board so composed would act harmoniously?—It is very difficult to say; but I should hope that being there, the members would be a mutual check on each other, and that they would look to the interest of the school.

Have you ever considered what would be the position of a schoolmaster under such a board?—I am afraid the difficulty would be to get people to take an interest in it. A good heritor, or one or two intelligent ministers, might be willing to act; but at present I am afraid little is done.

Is that not leaving it very much to accident?—But what is the case now?

Is it not under the control of the parish?—I am afraid the schoolmasters will come to know more and more their own power under the late Act, and the difficulty in the way of any complaint being taken up against them.

Then you would prefer having the management left to an accidental and undefined body, than left to one responsible body?—I think that the management under the plan which I have proposed might be quite as well defined as it is at present.

Mr. Dunlop.—Suppose that in a parish there was a very strong and influential congregation, although connected with what may be considered a very uninfluential and small communion, would you think it reasonable, with reference to the school in that parish, that such a congregation should have no representative in the managing board?—I think it would be highly desirable to make the board as wide as possible. I only know the number of ministers in each body from what one sees in the almanac, and I have only a general idea of their relative strength. If that case is found to exist here and there, it might be very proper to consider whether the body in question should not be included.

Do you see any objection to that?—I think as many bodies should be brought together as possible.

Instead of fixing the bodies by Act of Parliament, do you see any objection to allow all the Christian congregations within a parish to have representatives?—I do not. I think that would be desirable, if it would not weaken the preponderance of the leading bodies too much.

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Confining it to parishes, the preponderance in the board would correspond with the population of the parish?—Yes, in most cases, but not in all.

Supposing it were impossible, which I believe it would be, to prescribe anything as to a Catechism, or a modification of a Catechism, in the Act of Parliament, would you think it safe to trust any such shortening of the Catechism as you have alluded to, to a Parliamentary Commission, which it might be necessary to appoint for other purposes, under any Act that might be passed?—It seems to me that there is next to nothing to do; if one looks at the Shorter Catechism, and takes so many questions and answers out of it, the thing is in shape already. The only doubt likely to arise, is whether a question or two should not be allowed to remain before the Commandments. But I suppose if any recommendation of the kind suggested were to issue from this Commission, you would look for yourselves, and define absolutely the questions to be adopted.

In your schools, which are attended by a good number of Presbyterian children, do you make any corresponding qualification in your own Catechism?—No.

Then you require Presbyterian children to state that they have godfathers and godmothers, whether they have them or not?—I believe our clergy and masters use their own discretion in teaching and explaining the Catechism; they are sensible men, and in applying the Catechism to a Presbyterian child, if they knew it was a Presbyterian, they would say, "This is not exactly our case, but I suppose there was something similar to it;" and I believe it has always turned out that there was something similar.

Lord Ardmillan.—I understand that the evil which you dread is the secularizing of the teaching?—Yes.

Assuming the extreme necessity of Christian teaching, would it not be a very satisfactory thing to know that in this country Christian teaching, and even catechetical teaching, is universally demanded?—I think so.

And supposing it to be the fact that no school has hitherto been set up, with the exception, I think, of one called a secular school, by a person of the name of Williams, in which there has not been Christian teaching, would it not lead you to infer that teaching without Christian teaching is not acceptable to the people of Scotland?—Certainly.

Then it would be in your mind a great additional security if you had a direction to that effect in an Act of Parliament; but if there could be a case in which you could dispense with that statutory direction, it would be the case of a country that so earnestly and universally desired it, as to make the statutory direction less necessary?—But the reason why we have so many denominational schools is, that we have no common basis for Christian instruction. The State, according to my plan, would be providing such a basis. At present we pull different ways. Among ourselves, as Episcopalians, there is a dread of the Shorter Catechism in many cases; there are things in it that we dislike, and we don't think it so good a formulary as our own.

In order to include a particular body in the instruction, it may be necessary to modify the religious instruction, so as to make it acceptable to that body; but apart from that view, which has a special end, the general object which you have at heart, namely, preventing the possibility of the national teaching of Scotland being separated from Christian teaching, would be accomplished, if you rely upon the feeling of the people of Scotland as uniformly desiring Christian teaching without statutory direction?—But the schoolmaster under the last Act may give no religious teaching at all.

But has he ever done it?—I don't know; but are you to leave each schoolmaster to determine what shall be religious instruction?

Can you have a better security than the religious character of the schoolmaster?—No doubt, the religious character of the schoolmaster, so far as it can be ascertained, is a most important point; but still, it stands to reason that an Episcopalian schoolmaster would teach Episcopacy, and that those of other denominations would teach their own particular tenets; and you would have no security for the uniform teaching in these different schools, and no security against a good deal of teaching which you would disapprove of. My idea would be, to render that impossible by prescribing what should be taught.

But have you any fear that the people of Scotland would ever dispense with religious teaching in the schools?—Yes; I have very considerable fear of the essentials of Christianity being left rather in the background, and the denomina-

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tional tenets brought uppermost. I have a fear that the schoolmaster might sometimes say less about the Commandments than about matters more mysterious, and far less necessary for the young. If you could secure pious and spiritual-minded schoolmasters in every instance, I should be very glad; but still the difficulty remains, how to secure catechetical instruction, which shall bind the schoolmaster to put such and such questions, and to get such and such answers.

The Chairman.—Then you are not content to leave the religious instruction to the management of local parties?—No.

And you would not be content to leave the representation of the other religious denominations to the accidental choice of the ratepayers?—I am less inclined to speak positively upon that point, because I have not considered it so thoroughly.

In short, your plan is based on the double security—1*st*, of statutory enactment in respect to the nature of the teaching; and 2*d*, in respect to the constitution of the board?—Yes; except that I could lay much less stress on my idea of the particular board.

REV. DR. GUTHRIE,—*examined.*

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The Chairman.—You have had your attention long directed to the state of education in Scotland, both in the parish schools and under the denominational administration of the Privy Council grants: I wish to ask your general opinion on this question, how far the present system—meaning both the parochial system and the Privy Council grant system—is adequate to overtake the education of the masses of the people of Scotland?—I don't think, at the present time, they are adequate to overtake the education of the masses, especially of the lower classes, of the people of Scotland; nor do I think they overtake districts of many country parishes, as well as towns, because I know country parishes where the parochial school is so situated that it cannot teach the whole children of the parish, and there (at least in one which I am particularly acquainted with) the school which has been established under the Privy Council grants is set alongside of the Established Church school, and therefore it does not meet the wants of the parish either. In Lochlee, a parish fifteen or sixteen miles long, there is a place called Tarfside, which is situated about five miles from what was the parish school; in that small village you had a school for the Society for Propagating Christian Knowledge, a Free Church school, and an Episcopalian school; while between that small hamlet and Edzell there are twelve miles without a school at all, though it is a well-peopled glen. I don't blame the parties there; I don't say the Episcopal or Free Church school was established in opposition to the Established Church school, but that is the most populous part of the parish, and their only chance of living was to fix the schools there.

Then you think the denominational system has a natural and inherent tendency to aggregate the schools in that way, without reference to the wants of the population?—It is inevitable.

Have you any other objection to the system, in respect of its sectarian character?—I am bound honestly to say that all Churches are sectarian. That is the natural tendency of all Churches, though it may be controlled by other circumstances. As long as human nature is human nature, that will operate to a certain extent while the present system exists; though I do not believe it has operated to the extent which some people suppose.

Do you think that the teaching in the Presbyterian schools in Scotland has been of a sectarian kind?—Not in the smallest degree.

Then you don't object to the denominational system in that point of view?—Not in the least.

With reference to the multiplication of schools where they are not necessary, are you aware whether the Free Church scheme, for example, contemplated the establishment of a school in connexion with every congregation?—You mean a school co-extensive with the Free Church, irrespective of the needs of the Free Church?

Yes.—I am sorry to say it did, but I am bound to say that I objected to that.

On the ground that it naturally led to the needless multiplication of schools?—I had better state what happened in regard to my present church. We built that church, and there was a large room below it, in which some of my people wished

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to establish a school. On the other side of the street was my old church, with an excellent and efficient schoolmaster, and abundant accommodation for scholars; and I opposed the setting up of a school in the room below my church, just because there was no need for it, and because it could only draw away children from the Established Church school.

Did not the Free Church scheme originate in the number of teachers who left the Established Church in 1843?—Quite so. I was present at only one meeting of the Free Church Education Committee, and I then proposed that, as a given number of teachers had come out with us, and as we were bound to maintain them, our education scheme should have for its end the raising of funds sufficient to maintain these men, and plant them in those parts of the country where schools were needed, where there was a want of education; to extend the education scheme, not to oppose the parish schools or the Established Church schools, but to meet the wants of the country. But that plan was not adopted.

Then, so far as the Free Church did not adopt your principle of distribution, do you think it has tended to the needless distribution of schools?—In some cases I know it has, but not to the extent represented. I believe the Free Church schools have supplied a great want in many parts of the country.

Do you think it has led to the inconvenient distribution of these schools?—Yes, more than anything else.

Do you know any other case which you can mention besides Lochlee?—At Kilmun, on the Holy Loch, I remember seeing two schools planted down, the one Free Church and the other Established Church, not above 300 or 400 yards from each other. I also remember a case connected with the late Mr. Hog of Newliston. The Free Church people wished to get a school in the parish where he was a principal heritor; Mr. Hog said, if they agreed to plant it in a district of the parish where there was much need of a school, he would support it, but not otherwise; the school, however, was planted in the same district with the Established Church school. Now, I don't blame the parties, because they had to support themselves, but I say there is a difficulty in distributing them under the present system.

Do you think the denominational system, as administered under the Privy Council, is sufficient to overtake the masses in the great towns?—It is not, in so far as a given amount of money has to be raised by the district before a grant is got from the Privy Council; and there are large districts in this town where the people are neither able nor willing to raise a penny. And it does not meet the case of the lowest classes, who can only be reached by means of ragged schools.

How far do you think there is a sufficient number of schools in Edinburgh, if you could get the people to attend them?—I could not attempt to answer that question. The Heriot schools have supplied a great want in this town, and without them we should have been very destitute.

Do you think there is still a large portion of the poor who do not attend any school?—Immense numbers,—hundreds of them. I remember my first visitation in Old Greyfriars parish, and out of the first 150 or 200 I don't believe half a dozen attended any school at all.

Do you think many are prevented from attending by the temptation held out to parents to send their boys to industrial employments?—No doubt of it; but that does not hold in Edinburgh, so far as I am aware, to any great extent.

Then it is sheer neglect?—Sheer neglect and ignorance. The parent is too ready to spend every penny he can lay hold of in whisky, rather than send his children to school. That is the great cause of the non-attendance of children in Edinburgh.

Then the present system does not reach the masses of the population in the great cities?—Certainly not.

What is your view as to a substitute for the present system in Scotland,—would you extend the principle of the old parochial schools by assessment or otherwise?—I never had any difficulty as to the propriety of extending the parish school system. With the exception of the Episcopalians and Roman Catholics, for whom separate provision can be made, the people of Scotland are all at one in regard to their religious views. We have differences, but these do not touch matters of doctrine.

You think it would be very easy to arrive at a national system of education in Scotland, in which all Presbyterian denominations might be embraced?—The easiest thing in the world.

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With reference to the difficulties started in connexion with religious education, would you be content to leave that question to be determined by the votes of the local board?—At present the matter of religious instruction is left to the heritors and the minister. I would leave it on the same footing.

But with the addition of representatives of the ratepayers?—The heritors and the ministers are now the managers of the parish schools. I would leave the question of religious instruction to the new managers of the schools, whoever they might be.

You would require no statutory provision in regard to it?—None whatever; for this reason, that I have such an opinion of the people of Scotland, with the exception of the lapsed classes in our large towns, that I believe they would not send their children to a school where the religious education was not more or less attended to. I may be misinformed; but I understand that a school was tried in Leith on the purely secular system; it lived a few years, but was on the point of expiring, when the teacher put outside the door, "The Bible now taught here." Then it began to fill, but not till then.

Then you think no school would succeed in Scotland in which religion was not taught?—Yes; with few exceptional cases.

Are you prepared to face these exceptional cases?—Perfectly so; because no law can meet all cases.

In regard to parishes in the Highlands where the majority of the people are Roman Catholics, you are prepared to face the consequences which would take place there?—Perfectly so; provision being taken that Protestant children attending school should not be present when any Popish doctrine was taught.

Then you would allow children to come to school for secular instruction?—Yes; and such has always been the case in the parochial schools.

You would enforce that by Act of Parliament?—Clearly.

With reference to the existing parish school, in which a considerable change was made a few years ago, the masterships being open to all denominations, the only remains of the old system being the presence of the parish minister on the board, and certain very ill-defined powers in the Presbyteries, would you be content to let that be as it is?—No, I certainly would not.

What is the change you would insist upon?—I would have a representation of the people.

Then I understand you insist on that with reference to the existing parish schools as well as any new schools which might be established?—I was perfectly willing at one time that the Established Church would hold all the parish schools under the present system, if they would agree to an extension, on a more liberal footing, to provide for those districts of the country which were not provided for; but that day has gone by.

And now you would not be content with such an arrangement?—I would be content, but the country would not. I have no doubt the present management is a good one, though it might be improved; but the country would not be content with it.

You wish a representation of the parentage or ratepayers?—Surely.

Have you any plan by which to effect that object?—No; the parties who represent the wealth and intelligence of the parish should have the power of appointing a body of managers; and I don't know how you can effect that except by taking those who pay poor's-rate, or those who have the political franchise.

Do you object to the Established Church minister being, *ex officio*, a member of the board?—I have no personal objection; but I am afraid the people would, because the schools are to be for all parties. If you make all ministers of all Protestant denominations *ex officio* members, that would take away the difficulty.

Is that feasible in an Act of Parliament in the present day?—I could not speak to that point; but if this matter is to be placed on a broad catholic basis, to embrace all Presbyterians, why should any one body have a privilege of that kind?

Would not the others be eligible?—I am afraid there would be great objections to that arrangement.

If things were allowed to remain in that respect as they are now, practically the result would be that other clergymen would be on the board?—I have no doubt of it; I believe they would be the very parties the people would elect.

Would they get on harmoniously together?—I have no more doubt of that

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than of the fact that we have got on harmoniously with all denominations in the ragged schools.

With reference to the question of attendance of children, even where there is plenty of school room, have you observed a great deficiency in that respect in rural districts as well as in towns,—a difficulty in getting children to attend school for a sufficient time?—Great difficulty. At family worship I require my servants to read verse about; and when young people came to me before the communion at Arbirlot, I always required them to read; and no one would believe the number of people that cannot read the Word of God intelligibly to themselves. The truth is, the education in this country is inadequate for its purposes. I have just been reading a speech of Lord Stanley on that subject with the greatest delight—he says that the grand business of a school ought not to be so much to give information, as to make the scholars thoroughly able to read easily and intelligently. I can speak to that—to the number of people who can't read—and the result is that they don't read; because where people read with difficulty, they won't read.

Do you think, in the rural districts of Scotland, there is a large population who attain to adult age without being able to read easily?—I think so; I have no doubt of it; I speak from the observation of twenty or thirty years.

Do you think in that respect matters have been getting worse in Scotland of late years?—I don't know that they have been getting better. In the olden time the schoolmasters, instead of cramming them with a great mass of general knowledge about oxygen and hydrogen, and matters which are not of any importance to children, drilled them in reading, and perhaps they read better than they do now.

Then you would rather approve of the principle of what is called the New Code, which insists on more attention being paid to the three R's, as they are called,—reading, writing, and arithmetic?—Certainly; these are the keys of knowledge to the people; and if the key gets rusted, it is never used.

You are aware that the New Code was adopted in consequence of the mass of evidence brought before the Privy Council in England, that the elementary education was neglected in the schools there?—I am quite aware of it.

Do you think there is the same neglect in Scotland?—No; I don't think there is; but I think there is a defect there.

Then you approve of the attention of the masters being specially directed to these subjects, as more important than any other?—Clearly, to the three R's.

With reference to the neglect in sending children to school at all, and their inadequate attendance when they do go, would you approve of extending the principle of the Factory Act to all employments, viz., that children should not be allowed to be engaged in any industrial employment, unless they had been for a certain period at school?—I have always been an advocate for compulsory education, and I would take that as an instalment.

You approve of the principle?—Yes, so far as it goes. I would rather that it went farther. It is a hard thing, when a boy is neglected by his parents, to say to him, when he comes to a factory, "We won't take you in, because you cannot read;" the boy says, "That is no blame of mine; you saw me neglected, and leaving me so, you shut me out from an honest livelihood." Still I think it would be a step in the right direction. Adam Smith says, "The State should take means for imposing education on children," and he proposed that no person should be allowed to open a shop, or become a member of a corporate body in a town, unless he could read and write.

As regards the country districts, would there not be some difficulty in applying the principle practically where there is no employment but digging potatoes, etc.?—I would allow no one to be a ploughman, or even a domestic servant, unless they could read and write.

In great cities, at all events, you would apply that principle?—Yes. In our manufacturing towns, I know that children are sent to the mill and loom when they ought to be at school, in some cases to help to feed the family, and in other cases to feed the vices of the parents. There is provision made as to the mill-worker, but there is no provision made as to the weavers, and there are thousands of them at the loom who ought not to be.

Parliament has applied the principle first to one employment and then to another, as necessity arose: you are in favour of that?—I am in favour of it being applied to all remunerative labour.

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You see no difficulty in applying it in great cities?—Nor anywhere else. If a law were passed to that effect, parents would take care to send their children to school, and keep them there, who don't do so now.

With reference to your ragged schools, these schools were originally started for the destitute and neglected classes?—Yes.

For some years you received large assistance from Government,—so much a year?—Yes.

That assistance has been withdrawn?—To a great extent.

Is it not the fact that that assistance has been entirely withdrawn in respect to all children, except those criminally convicted or committed for vagrancy?—I think there is a small allowance still, but it is very small compared with what it was. It is a mere trifle, and we would be better without it.

Is any allowance given in respect of children who have never come before a magistrate?—There are certain allowances, but so small as to have impaired our efficiency to an enormous extent.

How many have you in your ragged school of the convicted or committed classes?—We have not many; there is a large number at the Industrial School. I don't mention it in any sectarian spirit, but as a fact, that much the larger number of them are Roman Catholics, and they are sent to the Industrial School.

It has been stated as an objection to all schools where food is given, that they have a tendency to take away children from other schools: do you think that, practically, that objection can be taken against your school?—Not in the least degree. Every scholar that comes to us goes through a rigid examination by a committee. No system will work perfectly; but, so far as I know, there is not one case out of fifty in which such a thing occurs.

You think they are recruited out of a class that would go to no other school?—Out of a class that I am persuaded would go to prison.

You have machinery by which you examine every case?—Every case is thoroughly tested by our committee; and in fact our committee is exceedingly careful. We have formed rule after rule to prevent the thing being abused.

The religious instruction in your school is conducted on the same principle as in all other schools in Scotland?—With this difference, that we have no Shorter Catechism.

On what principle did you make that change,—do you think the Shorter Catechism too involved and too long to teach to children?—If you put it to me, I would have another catechism for our schools altogether. I would have a catechism in our schools that would embrace, in England, for instance, Episcopalian, Independent, and Wesleyan; and I have no hesitation in saying that if you had shut up in a room the last Archbishop of Canterbury, the late Dr. Bunting, and the late John Angell James, and told them that they would not get out till they had made catechisms for children of all denominations, they would have their dinner at the usual hour like other people.

Have you any objection to the Shorter Catechism on account of its length?—No; we have Episcopalians, and Baptists, and others, who support our schools, and we wish to give religious instruction in regard to which all these three denominations are agreed.

How is your religious instruction conducted,—it must be by the master teaching the children directly from the Bible?—Yes; and the same instruction is given, but not in a catechetical form, as you find in the Catechism of the Wesleyan, Episcopal, and Presbyterian Churches, on those points on which they are all agreed.

Your object is to avoid all sectarian questions?—Yes; taking up only those points on which Christians of these different denominations would agree, if they were sitting down at a religious meeting, or joining in prayer together.

We have had a suggestion made to us as to still further shortening the Shorter Catechism: how far would you approve of keeping its main chapters, and omitting some of a more highly doctrinal character, such as mount up to the highest region of metaphysics?—I would rather that you would provide a new catechism than touch the old. There would be an awful commotion in Scotland if you touched it.

Supposing you did not alter the old, but only omitted certain parts of it, would there be any objection to that?—I think the Shorter Catechism has made Scotland; but I think it is not a suitable catechism for mere children.

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Have you drawn up any catechism such as you say these late reverend gentlemen might have done?—No; but I think it would be a very easy thing; and I have no doubt if you got two or three ministers of different evangelical denominations, and told them they must be ready with their catechism at such and such a date, you would have the catechism.

You would object to any statutory direction to teach the Shorter Catechism in schools?—I don't desire that; but I would not object to it, if the country would agree to it. If it were not to form an obstruction to a great and good measure I would be most happy to see it. Only I would not have it if it were to form an obstruction to a great and good measure, because I don't think it absolutely necessary.

Have you any opinion to state with reference to the New and Old Codes?—No.

The Lord Advocate.—In regard to the effect of a thorough educational system on the morals and habits of the people, is it your opinion that a thorough system of education would create a great impression on our social position?—I have not the shadow of a doubt of it; because an uneducated man, possessing the intellect of a man and the passions of a beast, is the most dangerous of all animals.

And in both a moral and economical point of view, you would consider a thorough system of education a very important measure?—Not a doubt of it; and I may mention a remarkable illustration of that, which Mr. Chadwick gives in regard to the number of men killed upon the cuttings for railways. The number of men killed bore an exact proportion to the extent of their education. An educated man thinks, and looks before him. The largest number of people killed at the railway cuttings were killed by undermining the ground too far, and bringing down an immense mass of earth on themselves. The educated men looked before them, and foresaw the result, and made off; but those who were not educated went on recklessly, did not see the danger.

For the prevention of crime, and as a great social benefit to the community, would you consider a thorough national system of education as about the most important thing that the Government or Legislature could give to the country?—I think it would prove the greatest blessing that could be conferred on our country.

Can that ever be reached, in your opinion, by the denominational system as it now exists?—Certainly not.

The parish schools are not sufficient for the purpose?—No; they are not. They were sufficient in their day; but the population has so changed and multiplied that they are not so now.

Therefore, if the parochial system could be extended on the general principle on which it was based, which was to educate everybody, do you think that would be a most desirable consummation?—Most desirable.

What do you think is the general feeling of the people about the setting up of denominational schools: do you think they care about it?—Not in the least degree. I believe the people of Scotland attach no importance to that whatever, for this very good reason that an Established Church school, for instance, has no influence, as far as my knowledge goes, in leading off children to the Established Church, and *vice versa*. The people of Scotland, I believe, will send their children to that school where the three R's are most rapidly and efficiently taught, whoever keeps it. In my native place, I knew a fellow who was a great poacher, and was charged at last with sheep-stealing; yet he had a great school in Brechin, because he was one of the best teachers. Speaking generally, the people of Scotland will send their children to that school where education in the R's is best and most rapidly given.

I presume they would not send them to a school where the Bible was not taught?—Certainly not.

So that you think there is no feeling among the people in favour of the denominational system?—The very reverse.

In regard to your Original Ragged School, your principle from the first was not to compel children to take the religious instruction where their parents objected?—We never met with objections on the part of the parents. We gave the children liberty to go where their parents, if decent, would take them on the Lord's-day; if they were Roman Catholics, they could take them to the chapel. The truth is, we regarded these children as neither Protestants nor Papists, but as savages; and on that ground we felt it a point of conscience to teach them

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what we believed to be the truth; they were our adopted children. One woman certainly did object, and was asked to come next Lord's-day and see what instruction was given. She came, and having heard the instruction given in school, she made no further objection, and so the child was left there. I never knew any other case. The children were taken away latterly; but the objection did not originate with the parents.

Where did it start from?—I have no doubt whatever that it started with the priests.

You think that if the children or their parents had not been interfered with, there never would have been any objection?—No; the real truth is, that the parents were nothing at all.

In regard to the operation of the ragged schools, I believe the other, that it is a very efficient institution?—I am not finding any fault with the other; it does its own good.

To what extent do you think a system of ragged schools, properly carried out and made co-extensive with the wants of the community, would be instrumental in diminishing crime?—I have no doubt that that is the only efficient instrumentality. What first forced ragged schools on my attention, and found them a place in my head and heart, was finding hundreds on hundreds of children in the Cowgate who could not get their education in any other way. Their parents cared nothing for them; in fact we have had great difficulty in getting parents to give them up, because they made money of them.

Have the ragged schools in Edinburgh made a sensible impression on the amount of crime?—The best proof of that is to be found in the Prison returns. Before we commenced our ragged schools, the number of criminals under 14 years of age was 5 per cent. of the whole; after the ragged school had been in operation for 1 year, the proportion of criminals under 14 to the whole number in the prison came down to 4; after they had been in operation 2 years, the proportion came down to 3; after they had been in operation 3 years, the proportion came down to 2; after they had been in operation for 4 years, the proportion came down to 1; and after they had been in operation for 5 years, there was only ½ per cent. Some years ago the proportion rose a little; to the best of my recollection, to about 1½ or 2 per cent., but it was nothing to what it had been. In consequence of the Government aid having been withdrawn, we have not been able to receive the number of children that require education.

Does it accord with your experience that the criminal classes are confined to a limited area?—Almost entirely.

And that it descends from father to son?—It goes down from sire to son; and it cannot be otherwise, according to the principles of human nature.

So that if you could fairly reach all the children of that limited area in one generation, you might stop it altogether?—You would reduce it to a very small fraction.

Don't you know that in England the experiment has not succeeded so well as it has here?—I am quite aware of it.

In what do the difficulties of the English system consist?—In regard to London, six-sevenths of the ragged schools are not feeding-schools at all; the children are taken in two or three hours in the evening, and the attendance is most irregular. A Lord Mayor's day, or the Princess of Wales coming into London, to a considerable extent clears out the schools. I venture to say, there is not such regular attendance anywhere as in our ragged schools, because the children know that they get no porridge unless they come there. I remember, on going down the High Street early one morning, of seeing a number of our children coming up; one of them was borne on the shoulders of another, and on my asking the reason, he said that the little fellow had burned his foot the night before, and he was carrying him to school. That would not have happened in any other school in Edinburgh.

Supposing you to have your own way with the ragged schools in Edinburgh, how much assistance would you require to make the thing complete?—I say to Government, it is far better for you to educate a boy out of prison than in it; we will not ask you to pay one farthing for food, or clothing, or schoolhouses; if you will meet the expense of education proper, that is all we ask. By education proper, I mean the salaries of the teachers, and other such expenses.

Can you give me a notion how much you would ask from Parliament?—Our

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expense is considerably greater than it was, in consequence of the rise in the price of provisions. We got 5s. a month before, I think, and we were very well content to have £3 or £4 a year for each. That was what Government allowed us before.

You would be content if Government allowed you £4 ahead?—Yes, that would meet the expenses of education proper.

What would you estimate the whole of the Arab population at?—It is not very easy to estimate that. Three years serve to the education of such a boy, and the expense of that to Government is £12; if that boy is left as he is, to become a criminal, the average expense is £300: that is the difference to the Government. I desired one of our officials to draw up a list of what we had done, and I have got the paper here; it is a list of children sent to situations from the Original Ragged School, Ramsay Lane, from 1858 to the present date, and how employed. The number of boys is 154. Of that number, 118 are at the present date earning honest livelihoods; 20 more were doing so when we last heard of them; 10 have been lost sight of, and 6 have returned to crime. I have no hesitation in saying, from what I know of the parentage and condition of these children, if they had not been at these schools, that instead of 6 of them being criminals out of the 154, you would have had at least 100.

So that the difference of the expense and the saving to the country would be enormous?—Enormous.

You cannot give me an estimate of the sum?—No; but I remember when I first started these ragged schools, I counted that there were 1000 or 2000 children in Edinburgh, who should be the subjects of ragged schools; that is, taking the biggest estimate, £8000 a year.

You think £8000 a year from Government, would be enough?—Yes, for Edinburgh.

And in the same proportion in the large towns elsewhere?—Yes, according to the population.

Is it your opinion that if that were done systematically, you might break up entirely the nucleus of the criminal population?—Not a doubt of it.

As to the management of the school, you think the people would not be content to let the clergyman of the Established Church remain as an *ex officio* member of the board: if you got everything else that you wanted, would you insist in that objection?—My only fear is that there might be fractious individuals who would object to it; but I would have no objection. I take what I can get, and I don't believe it would form any serious obstacle to the bill.

Have you any doubt that the clergymen of the Established and Free Churches would agree perfectly well on the board?—Not the smallest doubt.

You agree very well in the ragged schools?—Yes; and there are a great many adventure schools in the country, where Established and Free Churchmen are managers, and there is not the smallest difficulty.

As far as you know, there is no such bitterness of feeling as would prevent that?—No; the questions on which they differ never would come up. When a teacher was elected, there might be some striving each to get in their own man, but that would be all.

And that may be the case in the existing state of things?—Perfectly.

Do you think the ratepayers would be likely to elect men who would give trouble and annoyance at the board: do you think there is the least danger of that?—None whatever. The ratepayers choose their managers; and I believe if there were two or three clergymen of other denominations, the ratepayers, in a large number of instances, would choose them. That is the way the thing works in America. If the ministers have the confidence of their people, they would be chosen in preference to any other person.

Mr. Ramsay.—You have stated that, in your experience in a rural parish, you found a great many young persons who could not read?—Who could not read easily and intelligently so as to find it a pleasure to themselves.

Do you think it possible to ascertain, in the rural districts, what proportion of the population are in that state?—It would be very difficult, because my opportunities of knowledge were making them read the Bible, when they came forward as young communicants, or when they were my servants. They often made nonsense of it. For instance,—a herd boy was reading, "Master, Moses said" so and so; the way he read it was, "Mr. Moses said" so and so.

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Do you think if such information could be obtained, it would be of great use in enabling us to ascertain the deficiency of education?—I think so. I have heard many ministers speak to the same effect.

Mr. Davidson.—In the case of that parish was there anything peculiar, do you suppose?—On the contrary, it was one of the best-ordered parishes in Scotland.

Were they ill-taught then?—Many go to school in winter, and don't go to school in summer; and what they learn in winter is often lost before the next winter comes round. What I wish to impress on the Commission is the importance of having the three R's taught thoroughly in all the schools.

Then it was inefficient teaching?—No, not more inefficient teaching than anywhere else. Since I have come to Edinburgh, and got servants from other parts of the country, I have found the same thing. I make my servants always read, and I have thereby opportunities of knowing which other people have not.

You are aware that to the trade of thieving children are essential?—Quite so.

It is the operation of the ragged school to catch the boy before he becomes a criminal?—Yes.

In the ragged school, have you followed the children after they left the school?—Yes, we take particular charge of the children after they leave the school; nay, we follow them to the very colonies. A large number have been sent there, many of whom are doing remarkably well. All the information which I have given from this paper is the result of regular careful inquiry. The children are all known, and they are followed for years afterwards. Of the two that emigrated, one is a farmer in Brunswick, and the other is a contractor in Sydney. Of the girls that emigrated, nine are married, one to a farmer, and another to the editor of an Australian newspaper.

You find that they do not in general, or to any extent, lapse back again?—Of the 154 who have left the school, between 1858 and the present time, to the best of our knowledge, six only have lapsed into crime. There may be a larger number, but that is the extent as known to us.

What you have been speaking of is a national system for the Presbyterian bodies generally. You said that separate provision might be made for Episcopalians and Roman Catholics: have you any suggestion to make in regard to that?—There is clear necessity for a separate provision for Roman Catholics, but I don't see any necessity for a separate provision for Episcopalians, though I am afraid they might insist on it. When I was a boy, Episcopalians were taught in the same school as I was, and we never fought about Episcopacy or Presbyterianism. Taking the Shorter Catechism as it is, it is not a denominational catechism; it is a doctrinal catechism, but not a denominational one. I can see no necessity for a separate provision; but I am afraid you would not accomplish it without that. As to Roman Catholics, I have a clear and distinct opinion: I would not be a party to giving money or countenance to the teaching of what I think is error; and therefore I disapprove of the Privy Council grants, in so far as a large amount of the money goes to teach what I think error. But I would make the amplest provision for the secular education of Roman Catholics, leaving their priests, as on the Continent and elsewhere, to give them their religious instruction. Wherever there was a sufficient number of Roman Catholic children to constitute a school, I would give them a school where secular knowledge should be taught.

Would you make it a separate school from the parochial schools?—Certainly; and the Roman Catholics would prefer that themselves; they don't wish their children to be taught with other children, and I would give them secular education there.

Have you any suggestion to make about Episcopalians being separately taught, supposing they were to insist on separate teaching?—Nothing, except that it might be necessary to keep the Privy Council grant open to them. I should be sorry if they did insist upon separate teaching, because I do not see any necessity for it.

You have told us about the great want of education in Edinburgh, and I think you mentioned Greyfriars parish as an example?—Yes, and the parish that I had afterwards, including parts of the Cowgate, Lawnmarket, and Grassmarket.

We have it in evidence that, in one of the parishes in the Old Town, there was an estimate taken of the number of children not at a Sabbath school, and that it was found that there were only two in that position: what do you say to

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that statement?—That is possible, for in the school below my church, we sweep in the children of the Grassmarket every Sunday night; but that is not giving them education. In ragged schools in London, they give them two hours in the evening, but that is almost a mockery, after the children have spent the whole day on the street learning mischief.

But may the children be swept up so that there are only two not at school? —I am surprised to hear that. Certainly it does not consist with my experience.

Mr. Mitchell.—You refer to the great community of religious opinion which exists in Scotland, as giving a guarantee for the religious character of the teaching, supposing a system to be established such as you have referred to: do not the three larger bodies of Presbyterians in Scotland hold the same doctrinal standards?—They do.

So that they must change their constitution as Churches before they teach different doctrines from each other?—Certainly.

Mr. Cook.—You stated, as one of your main objections to the present system of grants in aid, that it tended to accumulate unduly schools in the richer districts of the country, and left the poorer districts unprovided for?—Yes, the more thinly populated districts. There are two conditions of the grant in aid, one is, that the school must be in connexion with some religious denomination, and another is, that there shall be a certain local pecuniary contribution?—Yes.

Which of these rules is it that produces the undue accumulation of schools in certain quarters, and the failure to get them in others?—Neither of them, but you must have a given amount of fees besides that, otherwise you cannot keep your teacher, and in order to that, you must have him in a populous district.

It is the necessity for a certain amount of fees, and there are not pupils to give the fees in these districts?—Quite so.

Might the necessity for a local pecuniary contribution be done away with, and the denominational character of the system be still retained?—I am afraid you would then multiply schools unnecessarily, unless the Government laid down a rule, that no schools should be established, unless there was clear necessity for it.

How would it multiply schools?—Because the denominations would find it easier to put up schools.

Every denomination, you think, would insist on having its school?—That is the tendency; but I think it best to have a local pecuniary contribution. If you had a compulsory system of education, and compelled every man to educate his own children, there are hundreds and thousands who are now educated at the public expense, who would and ought to be educated at the expense of their parents. There are three classes into which the country might be divided:—1*st*, the willing and able; 2*d*, the willing and not able; and 3*d*, the able and not willing. The able and willing are perfectly fit to pay out and out the teacher at the present moment. As to the willing and not able, let the public assist them; they are the only parties that have any claim on public assistance. In regard to the able and not willing, I would compel them to educate their children, as they are compelled to feed them.

Do you think a man has much chance of contriving to be a religious man throughout life, unless he is connected with some particular Church?—Not at all.

He must be a member of some Church?—Clearly.

Is it not rather an argument in favour of the denominational system, that from the first the school in which the man is educated from his earliest youth is under the superintendence and management of a particular Church?—In regard to that, I think the thing is within the bounds of possibility; but I believe that in very few cases would the people of Scotland choose a man who did not belong to some Church,—not in one case out of fifty. As to the other matter, I believe here, as in America, the ministers of the different denominations would all be on the board. In the adventure schools the minister is generally elected.

Don't you think the fact of a school being a denominational school, and in connexion with a particular Church, has a tendency to give the religious education of the pupils a more determinate character?—I don't attach so much importance as some do to the religious education in these schools. I know only two instances of children who could trace their religious impressions to the common school. I believe a religious education lies with parents.

As to the constitution of the board of management, you stated that you did

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not yourself attach much importance to the parish minister being *ex officio* a member of the Board, but that you thought the public would object to his retaining that privilege?—I am afraid of it.

Don't you think a very considerable portion of the public would object to his being deprived of his present position?—But I think the one object on a good ground, and the other don't.

But *de facto* would it not be so?—But *de facto* comes to little purpose, if he has not a right at his back. The one I think is groundless prejudice, and the other not.

Would the parties connected with the Established Church not be likely to object to any bill which deprived the minister of his *ex officio* privilege, and the Presbyteries of their remaining rights?—I have no doubt they would.

Do you think any proposed bill for establishing a national system, or extending the present parochial system, would have a better chance of passing through Parliament by leaving that matter as it is, or by depriving them of their present privileges?—If you put it to me, I think by not placing the parish minister on the board it would be helped through the Commons; but if you don't put him in, I believe it might stick in the Lords.

Mr. Black.—I think the allowance which your ragged schools got from the Privy Council was £4 or £5 per head a year?—Yes; taking all things into account.

I think they said they could not support the ragged schools, because they thought that those who were criminal ought to be sent to prison, and those who were poor ought to be sent to the poorhouse?—Yes.

Supposing they were all sent in that way, do you think it would promote the morality of the children, and prove economical for the country?—The best answer to that is, that I believe the worst class of the community in England, and in many parts of Scotland, are those who come out of poorhouses. There are no children that turn out worse; and it would not meet the case of the large number of children of parties living by their wits in Edinburgh, who would not go to the poorhouse on any grounds whatever.

When the ragged schools were first established, the children were just swept off the street without having been branded with anything like criminality: don't you think that it has been a serious injury to these schools that the children must now be sent before a magistrate, and found guilty either of crime or vagrancy?—No doubt about it; and especially is that the case in regard to Lord Palmerston's Act, by which they must be fourteen days in prison. They come out branded, and there is an end to the child's well-doing in a great number of instances.

Has that not the effect of lowering the character of these schools, which were very independent before?—No doubt about it; while at the same time the Act that enabled us to take them up as vagrants gave us hold of a great many of them whom we would not otherwise have got.

How much did it cost the Government when they were sent in the shape of vagrants?—A great deal more.

Ten pounds instead of £4 or £5?—Yes.

Mr. Smith.—I think your estimate with reference to Edinburgh is £8000 a year from Government for ragged schools?—That is a mere rough guess.

You don't imply that that is all the expense?—No; that is the expense of teaching proper. Double the amount, at least, would be required.

Should that be raised by an assessment over the town, or should it be by a voluntary system as at present?—I have great faith in the voluntary system, and I believe it one of the best elements in it for good.

In your proposed new parish schools, I suppose you would do away with the presbyterial examination?—I would have a Government examination by an inspector. My reasons for that are many; among others, I believe it would be by far the most efficient system.

Don't you think the combination of the two is good?—I have no objection; but I never attached any importance to the presbyterial examination. I remember it was a very pleasant meeting with the brethren, but that was about the amount of it.

Would you contemplate aid by Government in addition to any local assessment; or would you throw the whole expense of the new schools on the parish

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or district?—I have not considered that question. I doubt if many of the districts could do it without help. I am clear for making people stand on their own feet where they can, but I doubt if many districts could do it without help.

If there was to be Government aid given, do you think it should proceed from the board in London, or would you have a central board in Scotland?—That is a point that I could not pronounce any opinion upon; but I have most faith in local management—in the management of those who have the deepest interest in the schools,—of the parents whose children are there.

You don't think there are certain peculiarities in connexion with the system in Scotland that render it more advisable to have a board in Scotland?—I should say so, but I am not competent to give an opinion upon that point.

Mr. Mure.—Who is to fix the locality in which the schools under the national system are to be placed?—I should suppose that would lie very much with the Government, evidence being given that a school was needed in such and such a locality.

Do you think that could be done satisfactorily without commissioners?—By commissioners, of course.

I understood you to say that in any board of management you would make the clergy eligible?—Most certainly; I consider that they are the first parties entitled to be there.

Do you not see an objection that might arise on the part of clergymen themselves, as to giving rise to a canvass?—No, I don't think it; and if there was, you would have either a clergyman or a good man. They could not set up a rogue against a clergyman. They could only put out the clergyman for a good man.

We have had it in evidence that some clergymen would object to be made the subject of a canvass: no objection of that sort has occurred to you?—I would have none myself.

Do you think any such objection exists to any great extent among the clergy?—I don't think it.

You mentioned that, as regards the management of your ragged school, you never found any difficulty arising from gentlemen of various denominations being engaged with you, as regards the religious question?—None.

Are you acquainted with the constitution of any of the boards of management of the different hospitals in Edinburgh, where gentlemen of different persuasions have to do with schools?—I sat for six years as a member for George Heriot's board.

Are the schoolmasters for the Heriot Schools chosen by that board?—Yes.

Had you any difficulty with reference to these schools on the matter of religion?—We never found the smallest difficulty, so far as my recollection goes. That board works most harmoniously.

Are gentlemen of different persuasions eligible as schoolmasters?—So far as I know, they are. I never saw any jealousy or difficulty in managing these schools.

There are Town-Councillors of different denominations at the board?—Yes.

Can you speak from experience as to the constitution of any of the other hospitals in Edinburgh?—The Merchant Company have an hospital, and the Trades have an hospital, and the managers of them belong to different denominations, and I never heard of any jealousies arising in the elections of schoolmasters.

Sir J. Fergusson.—Are you aware that a Committee of the House of Commons, called the Destitute Children Committee, after taking evidence, reported that in their opinion, the diminution of crime was attained by the multiplication of paying schools?—I am not aware of it: it was a great mistake if they reported that.

The Lord Advocate.—Were you not examined before that Committee?—No.

Mr. Dunlop.—You say that you have found that both in the country and in the towns, young persons are unable to read intelligently?—Yes.

Do you attribute that mainly to their having not been originally taught sufficiently, or in part to their having lost it?—Very much to their having not been originally taught well; because if they have been taught well, they keep up their reading, but if they find a difficulty in reading, they won't attempt it. I have no doubt that both causes operate.

As to the education test, would you apply it to adults as well as to children?—You would require to make it prospective, not *ex post facto*.

But would you apply it to farm-servants,—to grown-up lads, as well as to young children?—Certainly, I would go through with it.

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It has been suggested that in order to avoid the multiplication of machinery, the local board for managing the school should be the Parochial Board: would you prefer a board of parties elected for the express purpose, with a view to manage the schools?—I would be very much inclined to have a special board; and I believe that the people in most instances would choose most wisely.

Supposing the Government paid for the teaching in your ragged school, what proportionate amount of expense would still remain to be paid?—Nearly two-thirds more, so that the Government would have the best security that we would put no children to school who did not need it.

You estimate the cost of a criminal at £300: over what period does that run?—Till they are hanged, or dead. That was given me by one who was long at the head of the Bow Street Police-Office; I asked him what was the best way for putting an end to crime. "Not punishment," said he; "I never see a boy put for the first time to the bar of the Bow Street Police-Office, without saying to myself, My lad, you will cost £300 before the country is done with you."

You said that the sending of vagrant children to ragged schools had a tendency to degrade the school: but don't you think it of great value to the children so sent, that they are not sent composed exclusively of vagrants, but that they are merged in the mass of other children?—Clearly; and I think the great advantage of that Act is that it enables us to get hold of a large number of children whom we would not otherwise get hold of.

Lord Ardmillan.—Has it not from the first been the rule of the Original Ragged School, that if any decent parent objected to a child receiving catechetical instruction, it was not given to the children?—No, I don't think it; because we presumed that in ninety-nine cases out of a hundred, they were not decent parents that we had to deal with.

If I mistake not, I moved a resolution, which Dr. Alison seconded, to the effect that if any decent parent, who could be trusted with the education of a child, objected to the child receiving catechetical education, or to its going to the church, it would be allowed?—Clearly, in regard to the church. If any decent parent came on the Lord's day, and said, I want the child to go with me to the chapel, the child was handed over to him.

Was the point on which there was very soon after a difference, not in regard to the right of the parent to interfere, but in regard to the right of the priest to interfere?—Quite so.

Is not the piety of the teacher the best of all securities for the religious instruction of the school?—Most undoubtedly.

And don't you think that the religious influence of a pious teacher is more valuable than any direct catechetical instruction?—Far more.

And don't you think that the best security for having a pious and qualified teacher, is that he shall be elected by those who have the greatest interest in his worth and piety?—There is not a doubt of it.

And what body has that interest?—The parents. I have always held that.

Lord Polwarth.—You seem to lay much stress on compulsory education, and you took the case of a domestic servant applying for employment: on whom would you lay the punishment if that servant was not educated,—the servant, or the party who takes the servant?—If there was to be any punishment at all, it should be on the party who takes the servant; the servant is sufficiently punished already.

Then if a very good housemaid applies for a situation, and is found a satisfactory servant, her mistress is to suffer if it is discovered that she cannot read or write?—It is the business of the mistress to ascertain before she takes her whether she can read or write.

Should that be enacted in the Education Bill?—Yes, just as it is abroad. I know of a lady who lived, I think, in Kehl, opposite Strasburg, and who received a French servant into her house. The inspectors came round, and ascertaining that the servant could not read, told the lady that she must have her over the frontier in a fortnight, unless she would give security that she would be taught in her service: I think that is a very good system.

Lord Belhaven.—Will you get a House of Commons to pass a bill of that sort?—I would get the people to pass the bill. The only parties afraid of compulsory education are the upper classes; the lower classes are all, as far as I know, clear for it, because they know the evils of the want of it.

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You said you had no objection to sending the children of convicts to public schools?—No. I have a strong objection to that; but I have no objection to sending such children to the schools opened for them.

Would that not have an effect upon the other children at the school?—No; they know too well that a large number of their neighbours are more sinned against than sinning, and they don't look on crime in the same light as we do.

Do I understand you to say that the lower classes, the parents of these children, are much more anxious to get the children educated than the upper classes?—No; what I meant was this: when I have propounded the system of compulsory education, which I have done for many years in public and private, I found the upper classes raise a commotion about it, and say, "You will interfere with the liberty of the subject." But when I have propounded it to the humbler classes of the people at great public meetings, or privately, they say, "It is the only cure for existing evils." I speak of the decent classes of the working people.

When you say that the upper classes have rather objected to it, is it not rather that they see the difficulties attending it?—Exactly; it arises from their ignorance of the humbler classes of the people, because they think the humbler classes will object to it, and get up a cry that it is interfering with the liberty of the subject. Now, the decent humble classes are advocates for compulsory education, because they know, in regard to a large number of their worthless, drunken neighbours, who throw their children upon them for maintenance, that it is the only way that these children will be educated.

Is it not notorious that in all the mining districts of Scotland there is hardly a mining master who has not a school, and who does not do everything in his power to get the children educated?—I am aware that, much to their credit, they do so; and I know a gentleman, connected with a large chemical work on the Tyne, who makes every workman who enters his door pay a penny for the education of the children, whether he has children or not.

Is that not general?—Perfectly so.

Don't you think that unless the State were to make adequate provision for the education of all classes, it would be very cruel to have a system of refusing employment to anybody who was not educated?—I think so, and that is my difficulty.

And your suggestion that employment should be refused to persons who are not educated, assumes that the State is to give the means of education to all?—Certainly, to put it within their reach.

And you suggest that as part of the system of general education?—Certainly; without that it would be intolerable oppression.

Lord Polwarth.—Does that mean that the State is also to pay part of the expense of the education?—I think that would be a highly proper use of the public money.

[LORD ARDMILLAN *here took the Chair.*]

MR. CHARLES FERGUSON,—*examined.*

Mr. C. Ferguson.

The Chairman.—Are you the superintendent of the United Industrial School?—I am.

Have you several assistants under you?—Yes; I have three educational, and five industrial.

Your school is a large one?—We have at present 168 pupils attending it.

Of both sexes?—Yes.

You give extensive industrial teaching?—We do; we have tailors, shoemakers, carpenters, turners, bag-making, box-making, and printing on a small scale, for our boys. Our girls are taught housework, cleaning, scrubbing, washing, etc.

And you have found the industrial part of your school very efficient, as well as the teaching part?—Very much so.

You have, I suppose, some means of ascertaining what becomes of your pupils?

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—We endeavour, as far as we can, never to lose sight of them; we make inquiries into their character, earnings, etc.

Is it according to your experience that a large proportion of them do not fall into crime?—In 1860 and 1861, I was occupied a good deal in collecting statistics in regard to our former pupils, and I found at that time we had about 950 who had been sent to situations, and of these about 900 were doing well.

You are speaking at present of both sexes?—Yes.

How many years did that inquiry run over?—From 1847 to 1860 and 1861.

Have you found any evil to exist from the mixture in one school of children sent under the two Acts of Parliament,—the Reformatory Act and the Vagrant Act?—We have only children sent under what is called the Dunlop Act or Vagrancy Act. No school is licensed to receive children under both Acts.

You receive a good many of these children?—Of late years the Magistrates have sent us a considerable number. Just now we have 103 under the Act.

They are educated along with other children?—Yes.

And you don't find any evil to arise from educating them together?—In some instances we discovered, after a short time, that a few of the children sent to us under the Vagrancy Act should have been sent to a reformatory under Lord Palmerston's Act, consequently these were transferred to a reformatory, being the most suitable place for them.

The system, I believe, of your school is, that you give combined secular education, and separate religious education?—Yes.

All the pupils are taught the ordinary branches of education together?—Yes; the common branches.

And facilities are given for religious education according to their different creeds?—Yes; an hour is set apart every day (from ten to eleven) for religious instruction.

You have found that to work well?—Very well.

And in the ordinary instructions you find no differences arise from there being children of different denominations?—None whatever.

There is no harm done, you think?—There is no harm done.

You have a large proportion of Roman Catholic children?—We have always more than one half.

I presume these children would have very little chance of getting any education if you had not taken them up?—I think, generally speaking, nine-tenths of them would become pests on society, and would receive no education except what they picked up on the streets.

How long do you take them?—They are eligible for admission from seven to twelve.

At what age do they quit you?—There is no fixed age for leaving; the boy or girl of eight or ten, when admitted, would be sooner able to go to a situation and earn a living than the boy admitted at seven. A boy admitted at seven is physically unable to earn his living for a number of years; the boy admitted at eleven or twelve may be sent to a situation in the course of a year or two.

Have you made any calculation as to the cost per pupil per year: how much does a boy cost you in the year?—The education, industrial training, food and part clothing which we give, will cost about £8, 2s. 3d.

Food being dearer just now, the cost will be more?—I think it is quite likely they will cost us more in consequence of having some larger boys, and giving a larger supply of food.

Have you found it dearer this year?—I have not made the calculation for this year, but I think it is likely to be dearer.

I presume it is much cheaper to the State if a boy were educated at that rate than it would cost if he became a criminal?—There can be no doubt about that.

I presume that is your opinion both in the moral aspect and economical aspect of it; it is both wiser and cheaper?—Yes.

You have had no difficulty in making arrangements for the separate religious instructions of the pupils?—None whatever; since I have had any connexion with the school, the hour appointed for religious instruction has been from ten to eleven. I may mention that moral instruction is given in the school during the whole day; the hour from ten to eleven is for what might be termed the denominational instruction.

By religious instruction you mean systematic religious instruction?—Yes.

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The kind of religious instruction that would consist in teaching a boy that he should not lie or steal would be given at any time?—Yes.

I suppose you would not agree with a secularist with whom I once conversed, who said that if a boy stole his neighbour's bonnet, he would tell him that he did wrong, because it was not according to the fitness of things: I suppose you would not make that answer in your school?—No.

You would have no hesitation in telling him that it was a breach of God's law?—No.

Mr. Mitchell.—What are the books you read in the ordinary hours?—The books we have had since 1847 are those published by the National Board of Education in Ireland.

These are the books in which you instruct your pupils in reading?—Yes.

How do you arrange the conducting of education between ten and eleven?—I have no charge of the Roman Catholics. They are under a separate master for religious instruction. In the Protestant division, the school is opened with prayer, then a paragraph of the Old or New Testament is read, and one of the boys or girls is asked to give an account of what has been read in his or her own words, to see that they have been attending and understand the subject; immediately after that the class is asked if there is anything to correct in what the child has said. The next question is whether there have been any important omissions, then what important lesson we should learn from the subject.

Do you yourself conduct the religious instruction?—Yes, I am always, or at least, very often present; and two other teachers have a class each.

Do all your pupils attend except Roman Catholics?—All the Protestants attend. The Roman Catholics are present with a separate teacher, who is a Roman Catholic.

You don't read the Bible at any other hour?—No.

Supposing the Bible were read during the ordinary hours of instruction, do you think that any of your Protestant scholars would absent themselves?—I don't think there would be any objection to the Protestant children attending, but I think there might be some on the part of the Catholics.

Mr. Black.—Is the Bible read in the Roman Catholic department of the school?—Yes; their own version.

You said you have 168 scholars at present, 103 of whom are there under the Dunlop Act; that leaves 65, who have not been guilty of crime or vagrancy?—Yes.

The great bulk of them have been children who have been sent by the magistrate?—Yes.

How much do you receive for each of these?—For those sent under warrant, we receive 4s. per head.

That is £10, 8s. a year?—Yes.

Then you will be a great deal better off now than when you had the allowance from the Privy Council?—The largest sum that we received under the minutes of the Privy Council, was between £400 and £500; this year, I think, we will receive upwards of £1000.

So that you get twice as much from the Home Office, as you were desirous of receiving, without any of the children having been brought before a magistrate, and having committed any crime?—Yes.

Do you suppose it ever happens that parents, in order to get their children into the school, get them to commit a small crime?—We had one instance last year, where a mother applied to get her two boys admitted into the school; the case was brought before our directors, and postponed; a short time afterwards, one of the boys went and stole a pair of boots to qualify himself to get into the school, under the Act. He did not seem to know that begging would have qualified him equally well. I cannot help thinking that it would have been better if the child had never the term "thief" attached to its name. I think it would have been better if the child had been admitted.

Do you find that the discipline of the school is affected by so many of the children having been sent by the magistrates?—A great many of the children sent by the magistrates, are cases that would have been admitted on the charity if we had funds; if we find a boy so bad that he is more fit for a regular reformatory, we get him transferred.

You think that nine-tenths of those that you have would otherwise have become pests to society: if you had been left on the old system, getting a certain

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sum for the teaching of the children, do you suppose that you would not have a certain portion of those that have come from the magistrates: would they not have been intercepted before finding their way into crime?—I have no doubt that a very great many of them—perhaps three-fourths—would have been admitted on the charity, and would not have come to us through the police-office, if the committee had funds to support them; the number of admissions is always regulated by the funds at the disposal of the acting committee.

Can you tell us the proportion of Protestants and Catholics that are sent from the police-office?—Just now we have 41 Protestants and 62 Catholics.

Do you find any difference in the conduct in school between the Catholics and Protestants: is the one more easily managed than the other?—I cannot say that there is much difference. The one is as easily managed as the other.

You have endeavoured to ascertain the position of the children who have left your school: have you any list of these?—A list was published in the report of 1861.

What was the percentage of those that were not doing well?—About 50 out of 950 had turned out ill.

The 900 were doing well?—Yes.

Does the industrial part of the teaching increase your expense much?—It varies from £30 to £75 a year; that is, we lose on the industrial trades from £30 to £75 a year.

Is the industrial part of the education of much importance to the children?—Yes; I think it is of great importance.

Suppose one of your boys had been taught shoemaking, would his industrial training in your school be of any benefit to him when he left it?—Yes; of great benefit. We have had during the last year $4\frac{9}{10}$ applications for every one that we could supply. Our great difficulty lies in supplying those who want boys from us. Not long ago, a poor woman called with her son, and stated that he had met with an accident, that his leg had been taken off, and that he was only fit for some sedentary occupation; she had travelled three days through the town with him, trying to get him engaged as a tailor's apprentice, but the tailors would not receive him; they informed her that they could get boys from the Industrial School who were able to sew a plain seam when they got them. She stated that she was willing to pay us for the boy, till we could find a situation for him. He was taken in on these conditions, and in about six months a situation was got for him. He is now doing well.

Then 900 out of 950, who would otherwise have been pests to society, are now useful members of society?—Yes.

Mr. Smith.—How long has your school been in existence?—Since 1847.

It is since that time that the 950 boys have been sent out?—Yes.

Your school is not full at present?—We have more in it just now than we have had for a long time; we have rather too many in it, taking into account the accommodation we have. We have recently built an additional wing of four storeys, and in a short time, when this addition is completely finished, we will be able to admit more.

So that, so far as your school accommodation at present is concerned, it is as full as you can conveniently accommodate?—Yes.

Have you dormitories?—Yes.

Do they accommodate all these 103 boys?—The 103 are not all retained in the dormitory; we retain all the doubtful cases in the dormitory till we can place sufficient confidence in them, then we may permit them to lodge with their relatives, or with some respectable people in the neighbourhood.

You can only do that under warrant of the magistrates?—The Act gives us that power. We can either lodge the child in school, or outside with any decent respectable person, or at home.

For a certain period?—For any period of the sentence. At present we have about eighty lodgers in school.

You gave £8, 2s. 3d. as the average expense for the year: was that the expense of boys and girls combined?—Yes.

Is the expense of girls greater?—No; I think it is much the same.

Of the 950, how many were girls?—We have always about two-thirds of boys, and one-third of girls.

Does the same proportion apply to those who may be said to have gone back?

—I found that a larger proportion of the girls have turned out ill than the boys; I was surprised at this, and made inquiry what kind of situations these girls obtained when they left the school. I found that a large proportion of the girls who turned out ill had been sent to situations where they had to take charge of a young child. I thought this very remarkable, because it appeared to me that they could hardly have a more harmless or innocent employment; but on tracing them further, I found that they were allowed to go to the Queen's Park or to the Meadows with the children. In these places the little nurses congregated together, and one bad girl seemed capable of leading half-a-dozen astray. Ever since, I have not allowed a girl to leave the school for the purpose of taking care of children, unless to a situation in the country, or in a part of the town where I knew she would be properly seen after. I don't think there is such a large proportion of girls now who have turned out ill. Mr. C. Ferguson.

Are Roman Catholic girls about the same proportion as Roman Catholic boys?—About the same.

Mr. Dunlop.—How did the child who stole the pair of boots happen to be sent to you instead of to a reformatory?—In cases where the child is very young, and it is a first offence, the magistrates think that our school is a better place for it; but if we find the boy is a confirmed thief, we have him transferred.

Was the child tried and convicted?—Yes.

Is is not imperative under Lord Palmerston's Act to send such a case to a reformatory?—In the reformatory in this neighbourhood they won't take them for a first offence; they must be convicted at least twice of theft before they will receive them.

Have you any separate religious or denominational division except Protestant and Roman Catholics?—No.

You have no division of the Protestants into denominations?—No.

Lord Ardmillan.—And you never had any difficulty about that?—None whatever.

Mr. Black.—Do you suppose it is the parents of the children who would object to the Catholics receiving education along with the Protestants?—I think nothing would induce Roman Catholic parents to allow their children to be sent to a Protestant school but absolute starvation; they might be induced to do it for the sake of the food.

Lord Ardmillan.—Are you aware that in some of the parish schools there are Roman Catholic children attending?—I have had them at a parish school.

In that case, they were attending a Protestant school not under the pressure of starvation?—My answer was more in reference to schools like that in which I am now. I know that in several districts of Scotland where there are no Roman Catholic schools, Roman Catholic children are sent to the parish school, or schools in the neighbourhood.

Saturday, 10*th December* 1864.

MR. DUNLOP IN THE CHAIR.

GEORGE HOPE, Esq.,—*examined.*

The Chairman.—You are the tenant of an extensive farm in East-Lothian?—Yes. G. Hope.

You have turned your attention a good deal to the subject of education?—I have.

What is your view as to the present system,—would you prefer a national system?—Yes, decidedly.

Is there any particular point which you wish to bring under our notice?—I wish to be examined as to the protection necessary for minorities.

I suppose you mean minorities in regard to religious teaching?—Yes.

G. Hope. What are the protections which you think necessary for minorities?—I may mention that my attention was drawn to this from the omission in the last bill of the Lord Advocate of a clause that was in his former bills of 1854 and 1855; and I think that we would not be very safe if the religious instruction was left entirely to the local boards, and it is this chiefly which I wish to draw attention to. I have a clause in my hand, which would be ample protection, and in any general measure I should wish a clause somewhat to this effect inserted:—"That in all schools, whether parochial, rural, district, or burghal, established or regulated under the provisions of this Act, wherein any course of religious teaching shall be established or adopted, by the parties having the control or management of such schools, or shall be practised with their sanction or knowledge, a certain portion of the school hours shall be set apart for such teaching, under a regulation to that effect; that attendance upon such religious teaching shall not be compulsory upon the scholars; and that it shall form no disqualification, as regards the benefits and privileges of such school, otherwise, that any scholar shall decline to attend, or shall absent himself from such religious teaching."

Was there a similar clause in the bills to which you refer?—Yes; and it was wholly omitted in the last bill of the Lord Advocate.

Are you satisfied with the rule practically adopted in parish schools just now, by which parents may have their children withdrawn during the time of specific religious instruction?—Yes, but that arises wholly from custom, and I would like it secured by statutory enactment.

You don't wish for any specific religious teaching according to any views of your own?—No; the body to which I belong rather objects to religious teaching altogether in schools; but if the majority wishes it, we have no objection, provided we are secured from compulsory attendance during the period of such specific religious instruction.

You don't object to the teacher making religious observations?—Not at all; I don't find that my own children, who attend the parochial school, have been tampered with in any sort of way. I have no objection to them reading the Bible, if the passages from it are properly selected; but I object to the Shorter Catechism.

What association do you represent?—The Scottish Unitarian Association.

Are we to hold that a provision of the kind you have read would be satisfactory to those who think like you?—Yes.

Is there any other point which you wish to state?—No, except that I think in the extension of the parochial schools, it would be a good thing to give the ratepayers some say in the management, and not leave it wholly to the heritors. In East-Lothian, my proprietor pays the rates, and does not ask me to pay them, though I am legally liable; but I have a great interest in that school. I am a heritor in a parish where there are five of us, and I have no interest in the school in that parish at all. I would rather that the ratepayers should have a share in the management.

How would you propose to give them a share in the management,—by representation?—Yes.

Would you make it a definite number?—In proportion to the size of the parish. I am for local management,—but also for a central board to superintend.

Take the case of a parish with twenty-five or thirty qualified heritors, you would not have a board of fifty?—It would be as well that they should be reduced; but it is likely there would be more schools than one with that number of heritors.

In that way, do you think it would be right that the qualified heritors should nominate so many of their number as to make a manageable board, with so many representatives of the ratepayers?—I think that would be a good plan; but it is likely that there would be more than one school where there was such a number of qualified heritors.

Would you prefer one management, or would you wish each school to have a district to itself?—One of my objections to the present system of Privy Council grants is that there are established schools where there is no necessity for them.

Lord Polwarth.—You wish a safeguard to prevent compulsory religious teaching; but at present you have told us there is no compulsory teaching in religious subjects?—We have that simply from use and wont in the parish schools, but in any new measure which left it entirely to the management of the local board, I don't know what they might do.

G. Hope.

You wish a Parliamentary safeguard, if possible?—Yes.

Mr. Smith.—Your children attend the parish school at present?—They do.

And there is no difficulty, so far as they are concerned, with reference to the teaching?—None; whenever I told the schoolmaster that I objected to them being taught certain things, he at once dropped it.

Do you ever look into the parish school?—Not often; but I generally go to the examinations.

Is it well managed?—Very well indeed; it could not be better.

Your Association has no schools of its own?—None.

Mr. Cook.—When you say that you wish the board of management extended by giving the ratepayers something to say, I suppose you contemplate that the assessment should take a wider range than it does?—Yes.

Suppose the assessment for parochial schools were to remain as now, would you wish to have any extension of the board of management?—I think so, wherever the heritors make the occupiers pay their share of the assessment. Those occupiers that pay should certainly have some say in the management.

Mr. Davidson.—Do you prefer this clause to the one that was in the former bill of the Lord Advocate?—Either would do, but I would prefer this.

Would you be satisfied with the other?—I do not recollect exactly the terms of the other, but I don't think there is much difference.

You said you had no objection to the Bible being read, if the passages were properly selected: what do you mean by that?—I would not like the schoolmaster to allow my children to read the Bible without selecting the passages, because there are some parts of it that I would rather avoid reading to young people.

It is with reference to that view that you say the parish schoolmaster of your parish has refrained from teaching your children the Bible?—No, it is not regarding the Bible,—they do read it, for personally I have no objections to it; it is regarding the teaching of the Shorter Catechism.

Do your children leave the school when it is taught?—No; they are present, but they don't take part in it.

You said that there should be a district for each school: do you mean that the present parochial system should be altered,—that instead of a parish with a school, there should be a district with a school?—I think in large parishes schools should be set down in proper places to be fixed.

Without reference to the boundaries of the parish?—Yes, wherever there was necessity for them.

Mr. Mure.—Are you aware of any instances where schools have been put down under the Privy Council arrangements in localities where you think they were not wanted?—I don't know what schools get grants, and what schools do not. In the parish of Dirleton, I think, there are four schools at present, and three of them at least are paid by the heritors.

As regards local situation, are they too near each other?—Not at all; they are placed in good situations, selected for the purposes of the inhabitants.

Mr. Davidson.—No schools belonging to your body receive Government aid?—None in Scotland.

Mr. Dunlop.—You mention that you pay no part of the schoolmaster's salary: is it the practice of the East-Lothian proprietors not to levy their share from the tenants?—On some estates it is not levied, and on some it is. I believe of Lady Mary Nisbet Hamilton's property, on which I farm, it is all paid by the proprietor; on Lord Wemyss's property, I think the tenants pay their share. Over the whole county, I should say, about one-half of the proprietors make their tenants pay their share.

If the burden were increased, would you look forward to having to pay your share?—Yes, but it is not so much the burden that I object to. What I object to is, that the great bulk of the heritors have no interest in the matter. I instanced the case of the parish in which I am an heritor, and where I have no interest in the school, while in the parish where my children are educated, I have no voice in the management of the parish school.

Mr. Cook.—Have you no interest in the parish where you are a heritor?—I have property there, but I don't reside.

Mr. Dunlop.—There is no exemption from the school rates in your leases?—None, it is merely usage.

REV. MR. CROSSKEY—*examined.*

Rev. Mr. Crosskey.

The Chairman.—You are a minister of a congregation in Glasgow?—Yes.

And a member of the Unitarian Association?—Yes.

We have had submitted to us by Mr. Hope, the proposed clause of an Act of Parliament with regard to religious education: was that clause drawn up by your Association?—It was not drawn up by our Association, but it was drawn up by a committee in Glasgow, many of whom are in favour of a secular system, but they thought that that might meet the wants of our body, and of numbers not connected with us.

You are quite satisfied with the provision which it makes as guarding you against the evil which you wish to avoid?—Yes, against being overridden by a majority.

You merely wish protection against specific religious teaching?—Yes; I may mention that our congregations are in favour of a secular system. We are in favour, generally, of leaving the religious teaching to the clergy; but we wish protection against the rule of a majority.

With that protection, would your body prefer a national to a denominational system?—Most decidedly, in every respect.

A system very much on the system of the present schools, but securing your freedom by Statute, instead of leaving it to custom?—We most decidedly prefer that to any denominational system.

Is there anything farther which you would like to bring before us?—I think there should be a central board, and that the matter should not be left entirely in the hands of a local committee.

You wish the local boards to be subject to some control?—Yes, on the ground of obtaining a higher education. The local boards might set up a lower standard than a central board obtained from the Universities. There might be objections on the part of the local boards to the higher education. Then, with respect to religious teaching, the use of the Bible from beginning to end, without selection, on the part of schoolmasters, is at present rather a grievance with us. I have known children who had to read the Bible right through; and I have known children of nine or ten years old bring home chapters which certainly were not fit for them to read.

Do you think that is an evil which requires a statutory remedy,—don't you think you could trust to the good sense of the master?—Yes; but the schoolmaster often takes it as a mere matter of form, and gets through it as quickly as he can. That is our reason for preferring that the religious instruction should be left to the clergy of each denomination.

Would you wish it made matter of statutory provision?—No; except that we would prefer that the clergy of different denominations should give the religious instruction rather than leave it to the schoolmaster.

You would have no religious instruction in the school?—It might be, if the clergy had the opportunity. We have no objection to that, if kept separate from the general school work.

That is the secular scheme?—It is the Irish scheme. You can hardly call it secular, because religious instruction is provided. The clause handed in by Mr. Hope would protect the rights of a minority, where it exists. In almost every large town, and many villages, I know personally, or through our missionaries, the existence of one or two or more families that hold our principles, so that it would be a grievance if they had no protection.

Your main object is to get that protection made statutory, and not left to the discretion of masters or school-managers?—Decidedly, we should, through our friends in Parliament, oppose to the utmost the omission of such a clause. If we did not get it, it would be an oppression to us in twenty or thirty towns that I could name, where there are families connected with us; but we don't wish to interfere with the controversies of the great religious bodies in Scotland. We are a minority, and we merely wish to have the protection which I have stated.

With that protection you would rather support a national system?—We would most decidedly support it.

Lord Polwarth.—Do I understand that the system which you would prefer is

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a system of teaching without any religious instruction at all?—No, quite the contrary; we simply want the separation of it.

But so far as the schoolmaster is concerned?—Yes.

The clergy can give the religious instruction when and where they choose?—We would even have it in the schools, if a certain time were set apart for it.

That would interfere with the regulations of the school?—It is done in the national schools in Ireland.

In the large towns, but not in the rural districts?—But it is not the exclusion of religious teaching we want, but simply that each should receive such religious teaching as might approve itself to the consciences of the parents. In point of fact, education without religious teaching is against the opinion of our whole body. The question is, where and when it is to be given.

Mr. Smith.—You have no school in connexion with your own body in Scotland at present?—No, we have not.

The children belonging to your body go to the general schools?—Yes.

Have you found any injury to arise from that with reference to the present system in these schools?—No. In several instances parents have asked me to speak to the master as to the religious instruction, and the masters have always very courteously omitted that part of the instruction.

So that, so far as the present system is concerned, there is no injury of which you have to complain?—Not in the parochial schools; but if there is to be legislation on the subject, we would like that clause to be inserted. But we must speak of the parochial schools as acting very courteously to us. I may mention that there is a very large secular school in Glasgow, which is much frequented by children of our denomination, and many others. It was established by a committee, and it is attended by about 190 children; it is the secular school, Carlton Place, Glasgow. It was established in 1850.

Is the system you allude to practised in that school?—Religious teaching is omitted altogether.

There is no religious teaching at all?—No; but it has been a successful school. Moral instruction has been regularly given however.

You would not approve of any school where no religious instruction was taught?—We would not object to it, because we would provide religious instruction ourselves. We object to education without religious instruction, but the question is, where and when. I send my own children to a school where they are exempt from religious instruction, and give it at home myself.

But children not belonging to any religious body would have no religious instruction?—We would not object to a provision for that.

Mr. Mure.—What is the national system which you would suggest?—We would suggest a local rate, with local management controlled by some central board, in order to raise the standard of education, which the local committee would never do. Small local committees are often opposed to the higher branches of education, and I think it would be a misfortune to leave the education of the country entirely in the hands of local boards.

How would you propose that the local boards should be constituted: would it be entirely by representation of certain ratepayers and proprietors, or would you have parties in *ex officio*, or in respect of the amount of their properties?—In a large city like Glasgow, we would prefer to have people in *ex officio* who are connected with the higher education in the Universities rather than on account of their property. The whole feeling of our denomination is to have the highest possible standard for the schools.

Have you considered the matter with reference to the rural districts?—No, because we are only strong in towns; in rural districts we have simply isolated families.

Mr. Davidson.—In that secular school in Glasgow, do you know whether the children who attend it receive religious instruction generally or universally?—I know, as a fact, that a large number do.

Of course not in school, but otherwise?—Yes, I take all those connected with my own Church myself.

What is the number attending the school at present?—190.

How many of these can you speak to as receiving religious instruction out of the school?—I should say a large proportion.

The majority?—I should say so. I believe the greater part are connected

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with some religious body; they are generally children of the better classes of shopkeepers and tradesmen.

Mr. Ramsay.—What proportion of the pupils attending the secular school in Glasgow are the children of members of your congregation, or connected with your body?—I don't know the number. In our body in Glasgow we have some 300 children scattered through the town.

They do not largely attend that particular school?—All those in that neighbourhood do; but the others go to the Free Church and Established schools, and they find no difficulty by request in getting rid of the religious instruction.

Therefore it is rather a dread of the future, than any practical inconvenience to which you have been subjected in the past, which leads you to desire the introduction of that clause?—Partly, and partly from the Lord Advocate's last bill, which left us to the Town-Council, and provided that the Town-Council should manage as they thought fit.

That was your dread, and not any practical inconvenience which you have been put to in the schools in Scotland?—Certainly.

You have had no cases of peculiar hardship?—There might have been in districts occasionally a slight difficulty, but nothing to complain of. We have met with considerable courtesy, but that clause in the last bill of the Lord Advocate frightened us considerably. We have many friends in Parliament in England, and we would certainly attempt to throw out any bill that did not protect us; but we are quite prepared to make no factious opposition to any measure agreed on by the large religious bodies in the country; we simply want protection.

But you have really been protected by the public feeling in your favour?—We have been protected rather by the courtesy of the schoolmasters.

So far as the Churches have had control over the schools, it has been the will of the Churches that the children should be exempt from attendance, when their parents objected to their getting religious instruction?—I don't know whether the Churches have known anything about it. The schoolmaster most probably was acting under their instructions; but under any new system which left it to the majority in any locality, we fear that the majority would override both the instructions of the Church and the will of the schoolmaster. We have a great dread of being left to majorities.

Mr. Dunlop.—Have you anything else to add?—I think a large number of the working classes, particularly in large towns, would be far more content than is often represented, with a system nearer to the secular system, though that is not a good name for it. For instance, we petitioned Parliament at the time of the Lord Advocate's last measure, in favour of a clause such as we have laid before you, and in a day or two we obtained 2000 or 3000 adult signatures from heads of families.

That was only petitioning in favour of the system as practically exercised in Scotland?—Yes, so far as the practical working of parochial schools is concerned.

Mr. Black.—If separate religious instruction was to be given in the school, how would you provide accommodation for half a dozen different denominations?—You could not do that except in large towns. It is done in the large school at Belfast, I believe.

Mr. Davidson.—What is the mode in which they work it?—I believe an hour or a portion of an hour is set apart for it at the beginning.

Do the clergy of different denominations attend at the same time in the school, and take different parts of the school for separate teaching?—Yes; but that is a very large school.

Mr. Mure.—Is that one of the schools established under the Board of Education in Ireland?—I believe so.

In less populous localities, where there are schools established in Ireland under the national system, in which certain portions of the Bible are read, with a view to meet the case of the Roman Catholics, have the other denominations access to the school as well as the Roman Catholics?—I am not aware.

ARCHIBALD CAMPBELL SWINTON, Esq., *—examined.*

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The Chairman.—You have been a professor in the University of Edinburgh?—Yes, for twenty years.

And you are a heritor?—I am the eldest son of a heritor.

You have had various opportunities of attending to the question of the higher and lower education?—Yes.

What is your view as to the parish schools being a national system?—I think that, as far as they extend, they are a national system, though, of course, from the increase of population they don't meet all the wants of the country, and also from never having been applied to the towns.

In your opinion, would the system, aided by Privy Council grants, be sufficient to supply all the wants of the country?—Not unless the number of schools was very largely increased, and the difficulty of doing that would be, that it would impose a burden on one class of the community alone.

Does it appear to you that the wants of the country could be supplied better by the present denominational system, or by an extended parochial system?—I would have the present parochial system, the voluntary system, and possibly in some districts a system of more general assessment might be required; but I think, generally speaking, in the rural districts, to a very great extent, the wants of the country could be supplied by the parochial system, and the voluntary system aided by Privy Council grants, although, of course, there are exceptions in large Highland parishes.

Do you mean a voluntary system in connexion with Churches, or leaving it to parties unconnected with Churches?—I think it is a mistake to say that it is necessarily connected with Churches. I look on Churches, in regard to the establishment of schools, as just a body of individuals. I know that the Privy Council require that a school, in order to receive aid from them, should either be in connexion with some Church, or that the Bible should be taught in it. I think the second requirement is sufficient, without making it necessary that it should be connected with a Church.

Would you exclude Churches as voluntary contributors?—No, certainly not; but I would look on them as a body of individuals.

Which is your parish?—Edrom.

Does your parish school accommodate sufficiently the wants of the district as to education?—No, it does not, chiefly from the fact that it is a very large parish, and that the parish school, like the parish church, is situated in rather a remote corner.

How is the want of education supplemented?—By one mixed school, supported by my father, about five miles from the parish school, and by two others supported by another heritor, one a boys' school and the other a girls' school. There are thus four schools in the parish, and they completely meet the wants of the parish, and children of all denominations attend them.

Your parish is now sufficiently supplied by the parochial system, supplemented?—Yes, supplemented by individual heritors, without any Privy Council aid.

You are acquainted with the system on which the Privy Council grants are administered?—Yes, I know it generally.

Does it appear to you that they encourage schools where they are not needed, or that they properly supply the wants in all cases where they are needed?—In theory, one would suppose they rather tend to encourage schools where they are not needed. I am not aware that in fact that exists to any very considerable extent; of course it might be easily guarded against by aid not being given except to schools where they were needed. On the other hand, the Privy Council system is not sufficient to meet many cases in which schools are needed. Take the case of very large Highland parishes, where the voluntary contributions are necessarily small from the fact that the heritors have small rentals; and I think to require a full proportion of the expense of the requisite number of schools to be paid by voluntary subscription in those parishes, prevents the Privy Council system from reaching the wants of the districts.

What alteration in the administration would you suggest?—In the first place,

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I think some alterations are required with reference to the parochial schools. In the case of a parochial school, or any other school which has existed for a great number of years, there is considerable hardship in requiring the schoolmaster to undergo an examination in order to qualify him to receive the Government grant. I think after a man has taught a school for a certain number of years, and is a man of a certain standing, that in order to entitle the school of which he is master to receive a grant, the school should be examined instead of the schoolmaster. I would give that privilege to men who have held the office of schoolmaster for a certain number of years; and I think it might be satisfactory that the school should be examined by the Government inspector, in place of the schoolmaster being put through an examination which younger men might submit to. I also think that, as the Government grants are at present administered to the parish schools, there is a hardship in the rule the Privy Council has laid down as to what is to be considered the minimum. If there is only one school in the parish, the Privy Council allows everything above £35 to be considered voluntary; but if the heritors voluntarily establish more schools, and assess themselves for £50, or even for £80, they consider the £50 or the £80 as an obligatory sum. Now, inasmuch as the heritors willingly put themselves under that assessment, I think everything which they give above the statutory minimum of £35 ought to be considered voluntary, and be taken into account as entitling them to a corresponding grant from the public funds; and it would be a great deal better that, instead of being given to the school, the grant should be given to the heritors as the managing body, to be distributed among the different schools that they may establish. The heritors should have the distribution; if they raise their contributions above the minimum, everything they give above the minimum, whether they give it to one school or more, should be considered voluntary.

The grant should be to the heritors?—Yes; leaving them to distribute it according to their judgment; that is, as far as the parish schools are concerned. Then I think in many districts, especially in the Highlands, the grants should be more liberally administered; the system should be more elastic, and power should be given to the board who shall administer it to give greater aid where the district is a very poor one. I am not sure that there are not some districts of the country where schools should be established entirely by Government aid, without voluntary contribution.

But even where there is voluntary contribution, you would have a larger proportion given?—Yes; in many Highland districts.

Have you attended to the difference between the two Codes?—Yes; I don't know that, looking at it in its educational aspect, I would consider that there was any great evil in the changes introduced by the New Code. There is a little too much of a tendency to encourage only the mere elementary branches of education, and to give the schoolmaster no credit for the scholars whom he brings on to the higher branches. I think that is an evil; but financially I think there are very great objections to it, because, as applied to schools in thinly populated districts, the sum that the capitation grant alone would give to the schoolmaster would be too small, from the necessarily small attendance of children, without any fault of the master, from the population being sparse; the effect of that is, that under the New Code the schoolmaster would not receive a sufficiently good salary to secure a good man, or a certificated teacher at all; and unless the master is certificated there is no aid given.

Do you think any disadvantage arises from the inquiries as to the position in life of the parents?—I think there is an evil in that. Our rural schools are attended by a great number of children who are not the children of men earning their maintenance by manual labour, and yet the Code is to give no capitation grant except to the children of parents who earn their maintenance by manual labour.

Do you attach importance to what remains of the presbyterial and clerical superintendence of the parish schools?—Very great importance.

Is that the general opinion of the heritors, so far as you are aware?—I have not the slightest doubt it is.

What superintendence does the Presbytery exercise, beyond the annual examination by a committee of their body?—I don't know that, generally speaking, they exercise any other superintendence; but the parish minister has always the

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Presbytery to appeal to in any matter connected with the school, to which the jurisdiction of the Presbytery still extends.

Do you find that the smaller heritors, who have not the statutory qualification, complain of exclusion?—Never in a single instance did I hear of a complaint.

You have some of that class in your parish?—Yes; it has always struck me as very remarkable that I never heard a complaint as to the management from the tenants, who in most of our parishes regularly pay their half of the assessment; and I think it is very creditable to them that, when the salaries of the schoolmasters were raised, they did not make the slightest objection.

Then, in your part of the country, the relief which the landlord has by law against the tenant for half of the assessment is enforced?—I believe in some cases it is not, but generally I believe it is.

Lord Belhaven.—Is it generally enforced in Berwickshire?—I believe it is.

The Chairman.—I believe the heritors signed a declaration some time ago as to the parish schools?—Yes; ten years ago a declaration was signed very numerously by the heritors of Scotland; I happen to have personal knowledge of it, as I was concerned in drawing it up.

What is the purport of it?—The purport of it is, that the persons who signed it (all of whom were liable in payment of school salaries) thought that the then system of parochial schools worked well, that the system should be kept up, and that, except for the purpose of correcting defects in its working, and increasing its efficiency, the system of the parochial schools should not be interfered with, and that their connexion with the Church ought to be maintained. The declaration was signed by 33 peers, or eldest sons of peers, and by 1800 or 1900 other heritors.

Was it opposed to the recent change in the Act of 1861?—Yes; I think those who signed the declaration were in principle opposed to that.

Mr. Davidson.—What was the date of it?—1854.

The Chairman.—Would you object to the management of the schools being intrusted to the heritors, with a representation of the other ratepayers?—I think it is quite unnecessary; it is much better as it is.

How many qualified heritors are there in your parish?—I believe six. I know that there are six who take the actual management,—five through themselves or members of their families, and one by his factor.

Would any disadvantage arise from two or three of the tenants being elected to sit along with them?—I don't think there would be any material disadvantage, but I don't know that it would be any advantage. I think the limited number is in itself an advantage. With reference to tenants I would not object so much, because their connexion with the parish is permanent so long as their leases last; but, with reference to the parents of the children, I think one great objection to them, besides their not being good judges of a schoolmaster's qualifications, is that, in our part of the country, with which I am best acquainted, the parents of the children are a very migratory race, and their connexion with the parish is very temporary.

But the proprietors of houses in villages would be permanent, like the tenantry?—Yes; and to them the other objection would apply, of their not being able to judge of the qualifications of the schoolmaster. Besides, parents of children listen to every little matter of gossip and tittle-tattle against the schoolmaster; so that I think, for the schoolmaster's own ease and comfort, it is most important that he should be delivered from any interference on their part.

What power of interference have the heritors, supposing they were inclined to interfere?—By a clause in the recent Act, if there is an inefficient schoolmaster, they can apply to one of Her Majesty's inspectors of schools, and get an inspection of the school; and if he reports that it is inefficient, either from neglect of duty on the part of the schoolmaster, or from his age or infirmity, and that report is concurred in by the Presbytery of the bounds, the heritors can call on him to resign, and if he does not do so, they can dismiss him. That has been already found, in some instances, very useful.

Do you consider that religious instruction ought to be communicated along with secular?—That is most indispensable.

With a view to that, do you consider it essential that the minister of the parish should be one of the board?—I don't know any other mode in which that can be satisfactorily secured.

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Do you think the choice of the schoolmaster, by the parties interested in the education of the children, would be sufficient?—No, certainly not. I have already stated my objection to the parents being intrusted with any share in the management.

Do you see any objection to the clergymen of other denominations being on the board, as well as the minister of the parish?—I really would see no advantage in it, and I don't see how constitutionally it could be done. I don't see how such a provision could be introduced into an Act of Parliament, according to my ideas of constitutional law.

In any general system, do you think that there should be a separate provision for Roman Catholic schools?—I think you must give them some assistance. One cannot say that the present system is very consistent with strict principle, but it is so expedient that it may be said to be necessary.

Would you have any supplementary fund, which might be distributed to the parish or other schools, administered by a central body?—Yes. I rather object to the Privy Council as at present constituted. I have sometimes heard it suggested that there should be a special committee of the Privy Council for the purpose; but I would prefer a Scotch board sitting in Edinburgh.

And with such aid, you think the parochial system might be extended so as to suit the wants of the country?—Yes, along with the voluntary system, it might overtake the greater portion of the rural districts.

But does that necessitate keeping up the Privy Council grants?—Yes, some such system.

Then you don't see your way to supersede the present system of Privy Council grants?—No, I don't think that desirable. I think the voluntary system is a good system, both to those who give and those who receive.

Do you think there is a great want of middle-class schools?—I think one good result of this Commission may be to ascertain the exact number of middle-class schools that exist, many of them being merely adventure schools. I think it is desirable that a sufficient number should exist; but I don't think we have a full and sufficiently authentic account of the number that do exist.

When young men come up to college, are they at such a stage of advancement as properly to receive their college education?—I think it very desirable that they should come up at a more advanced age, and better instructed than they have hitherto been.

Do you know the opinion of the professors as to that?—There is a difference of opinion on that among the Professors of the Faculty of Arts; but I think the feeling is growing that boys ought to come to college at a more advanced age, and with higher acquirements.

Could the parish schools be made to discharge the functions of middle-class schools?—In former days, I believe they did to a considerable extent. In some places, I think, a parish schoolmaster with an assistant, might very efficiently do a great deal in that way; but I think difficulties exist now which did not exist formerly: first, from greater attention being paid to the lower class of students who do not learn the classical languages; and, second, from the fact that I wish to see a greater amount of classical learning given before the pupils come to college than ever has been given.

What system would you suggest for supplying the deficiency in that sort of education?—I should like to have full information as to the number of what may be called middle-class schools which exist in the principal towns in the country. I am not sure that it would not be found that there is a sufficient number of these; and if the Universities were to make it a rule that preliminary examinations should be required, and that students should not enter till they passed that examination, I am not quite sure that the want would not be supplied by the academies existing in towns; but if it was found that it was not, I would not be opposed to allowing the Commissioners of Supply of counties to assess the county generally for the establishment of middle-class schools in the principal town in the county; but I don't think you could make that compulsory.

How would you provide for the management?—I think it must be left to the Commissioners of Supply.

How would you provide for the management in burghs and large towns?—I suppose it must be left to the magistrates. I believe the result of your inquiry

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will be to show that there is not such a great deficiency even in towns as is frequently thought. If you take the number of children that ought to be at school in such a place as Glasgow, there are certainly too few schools; but if you take the number that would be sent to school, even if the schools existed, I don't think you will find that there are many too few now. But I think that where it is proved to the satisfaction of a central board that schools are necessary, power should be given to the magistrates to lay an educational rate on the burghs.

Would you have some general fund, such as the Privy Council grant, from Government?—I don't know that that is so necessary in large towns. In small towns it might be necessary. Of course, I look to the necessity of economizing the Government grant, because we cannot get an inexhaustible fund from Government.

Mr. Mure.—Supposing it were thought desirable to have some extension of the parochial system, by means of schools established under a rate of some sort, has it occurred to you what sort of local management could be made available for that purpose?—I would not call it an extension of the parochial system. I consider one of the elements of the parochial system is, that it is maintained by assessment on land alone.

But supposing an assessment is proposed on land alone in the shape of an assessment on the real rent?—I don't think it would be fair to lay a greater burden on land alone than is done already.

Are there not many districts in parishes where there is a large amount of real property, which pays nothing?—Yes.

Supposing a large and populous district at the corner of a parish suddenly sprang up, where there is a large amount of real rent, and supposing it were to be proposed to have a school for that district by means of some local management of some sort: has it occurred to you what that local management should be?—I would make it as nearly as possible in imitation of the parochial system, which works so well. I would be totally opposed to any election for the special purpose of managing a school. I would have a certain number of the largest ratepayers, having a right to act by proxy, as the heritors do in the management of the parish schools. Then I would like the minister of the parish combined with them. If there are objections to that, I cannot help it. With reference to any infusion of the popular element, I think the best mode is to allow a certain number of representatives to be named by the Parochial Board. I have put that plan into practical operation myself. I was employed by the First Division of the Court of Session to frame a constitution for a school, which, in regard to the children for whom it provides, is like the inferior class of parish schools. It was a school in the village of Moffat, founded by a benevolent gentleman who had been anxious for the establishment of a school where children should be more cheaply educated than at the parish school. The trustees died without any provision for successors; application was made to the Court, and the Court remitted to me, and I framed a constitution which gave satisfaction. I was very much pressed to put in the ministers of all denominations; I was told the Free Church and United Presbyterian ministers were excellent men, and would work harmoniously with the parish minister. I saw an objection, which I still think a constitutional objection, to the acknowledgment of bodies of that kind in a permanent institution. The constitution which I framed, and which was approved of by the Court, was that the school should be managed by the two or three principal heritors, with power to act by proxy, in the same way as in the management of the parish schools, the minister of the parish, and three persons to be named by the Parochial Board. The result was that these two reverend gentlemen, being the best men, were elected by the Parochial Board, and the school is going on admirably. I visited it this summer, and I heard from all parties that it gave great satisfaction.

Mr. Davidson.—Do you see any objection to applying something like that to an extended system of education?—I think it would be the best constitution for any new schools to be founded.

Besides what you call the constitutional objection to recognising other bodies beyond the Established Church, have you any objection to the admission of clergymen of different Protestant denominations?—It is difficult to draw the line as to what are to be considered Protestant denominations.

Is that the only objection?—No, there are other objections. It is not in every

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case that they would act harmoniously together. I should hope in many cases they might; but it is not in every case that ministers of all denominations would act harmoniously together.

Have you any objection to a system of giving secular education and religious education separately the one from the other, so that persons, for example, Episcopalians or Roman Catholics, who objected to the Presbyterian teaching in the school, might be taught religion at separate hours?—I think that would be attended with great difficulty. There is very little instruction which you can give into which the religious element does not come; and if the schoolmaster does not teach the religion, who is to do it? You cannot have two schoolmasters.

What do you say to the case of a parish in which the bulk of the population is Episcopalian?—I would encourage the Episcopalians, by a Privy Council grant, to establish a school of their own; but the great mass of Episcopalians have no objection to attending the parish schools. It has been always the custom of Episcopalians to attend the parish schools; and it has been always the rule in the parish schools, that if the parents of any children have an objection to the religious education, they are not compelled to take it. Advantage, I believe, is very seldom taken of that rule.

Have you any idea of making the attendance of children of the lower classes in the schools compulsory?—I don't think it is in the least necessary in the rural districts. I have always been struck with the very great anxiety of the lower classes in the rural districts to have their children at school. I don't say that they don't take them away during certain months of the year to be employed in field labour; I am afraid that is unavoidable; but I have always admired the sacrifices which the agricultural labourers make to get their children educated, and I have often been surprised how people with large families found the means to give education to so many children.

In large towns and populous places, what is your view as to compulsory attendance at school?—I don't know if there would be any objection in principle to an extension of the rules that have already been laid down in the Factory Acts.

Lord Belhaven.—You stated that you would prefer a board in Edinburgh, under which, as I understood, the schools were to be managed?—No, not managed. I would only intrust to them the distribution of the money, and the making of the rules under which the money is to be distributed. I would give them no control as to the management of the schools.

You would prefer that to a Committee of the Privy Council established in London?—I think it would be more easily done, and I think you would more certainly get men acquainted with the wants and necessities of Scotland. The local situation of it is of very little consequence; if you could get Scotchmen of position to act on the board in London, it would be as good as in Edinburgh.

You mean a branch of the Privy Council, whose duty it would be to attend to the distribution of the money?—Yes, if they were all or nearly all Scotchmen, and acquainted with Scotland, I think their sitting in London would be as good as sitting in Edinburgh.

You would give them no power except the distribution of the money?—No; but that is a considerable power, because it involves the regulations under which the money is to be distributed.

Mr. Ramsay.—You would confer on them the power of saying to what schools it should be given?—Yes; there would have to be general rules on that subject in the Act establishing them; but matters of detail would be left to their decision.

You have said that in rural parishes throughout a great part of Scotland it would not be necessary to enforce attendance at school: are you aware that in many exclusively rural districts the attendance is very limited?—It is not so in the parishes that I am acquainted with. It may be the case in very thinly populated districts, where the children are at a great distance from school. Where the school is within accessible distance, in agricultural districts, my experience is that the children go regularly.

Have you known any cases in your locality in which teachers have been dismissed for inefficiency under the Act of 1861?—Yes; I have known of one case in Berwickshire. I believe the schoolmaster was told he would be dismissed, and he retired.

He took the retiring allowance?—Yes.

You have known no case of dismissal for inefficiency?—I think I have heard of

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a case or two ; but I believe the most useful practical working of the clause is to induce resignation and avoid dismissal. The cases I speak of were cases of incapacity from old age. I have known of no case of dismissal as yet for anything like *culpa*.

Don't you think it is desirable that there should be some more simple method of getting rid of an inefficient teacher than is prescribed in the Act of 1861 ?—It seems to me pretty simple. You get a report from an inspector of schools, and if the Privy Council allow you to get that inspection as soon as you require it, it is a pretty summary process. The inspector visits the school, and if the Presbytery agrees with him that the man is inefficient, it is a pretty summary proceeding. The inspector merely reports ; the ultimate judgment lies with the heritors.

The Chairman.—Are not the words of the clause intended as a protection to the schoolmaster ?—Having been a little cognizant of the construction of that clause, I believe the intention of putting in the inspector was as the best mode of getting the information. The putting in of the Presbytery was as a protection to the schoolmaster.

The Lord Advocate.—Your Moffat school is working well ?—Remarkably well.

And you don't find that the different denominations quarrel among themselves ?—No ; I knew beforehand that they would not do so. It is a parish where the ministers are all very amiable, excellent men ; and I was told beforehand that they would act harmoniously.

Do you see any reason why such a constitution should not work well in any other parish ?—I think I know many parishes in which it would not.

But you saw no reason for not appointing a board of that kind for the express purpose of managing the school ?—No ; there were reasons against putting that school under the heritors and minister, which I should have thought the best plan, one reason being that it was in some degree a rival to the parish school ; and another reason being that the benevolent individual who founded the school was a Dissenter, and therefore, as representing him, which I did in making the constitution, I did not think it would have been fair to attach the school to the church.

But would not very much the same argument apply if Dissenters paid for a school ?—If the Dissenters solely paid for the school.

But if they pay a proportion, should they not have a proportionate share in the management ?—I don't think it is necessary.

Do you see any reason why a constitution of that kind should not work throughout the country in ordinary cases ?—I think it might work well ; but I would not give up the certainty of the admirable working of the present system.

But for additional schools ?—For additional schools I think it would work well. It is the best I have been able to think of.

Would you consider the fact of the parties working harmoniously in a mixed community would be an advantage, other things being equal ?—I should think so ; but by making them not *ex officio*, but only elective members, they were not put in unless they would work harmoniously together. The parochial board put them in because they knew they would work harmoniously.

Talking entirely of the additional schools to be erected, do you see any objection to putting the management in a body of managers, half to be elected by the heritors and half by the parochial board ?—I think that might do very well ; but I think the want of a certainty of clerical superintendence would be a great want, though perhaps you would get that practically.

I presume you think the present parochial system better than the voluntary system ?—Certainly.

Do you think an extension of the present system, as nearly as you can get it, better than the voluntary system ?—It depends on how near you can get it.

Take the case I was putting, of a board elected one-half by the parochial board and the other half by the ratepayers, with a general assessment, and a certainty that all the wants of the country shall be supplied ?—I would only take that in addition to the voluntary system. I would give the voluntary system its chance first. I think there are advantages in the voluntary system ; bodies of men who establish schools are likely to take the greatest interest in the management of them. I think the voluntary system is a good thing.

Not so good a thing that you would surrender the present system for it ?—No.

Not so good as a good national system ?—It depends on what the national

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system is. If everybody in the country was of the same opinion, and you could get a good national system in connexion with the Church, it would be a good thing.

Suppose you had a system where a school is put down wherever it is wanted, and maintained on a permanent basis by statutory enactment, don't you think that would be superior to the voluntary system?—No; in the present circumstances of Scotland, I think such a system as your Lordship points at should be only supplementary to the parochial system and the voluntary system. I see no great advantage in uniformity. Wherever the voluntary system fails sufficiently to supplement the parochial system, I would still have the power of laying on additional assessment, and founding additional schools.

Suppose the Free Church, which at this moment maintains 500 or 600 schools, were to resolve to abandon their educational system, how would you supply the deficiency?—It would require an assessment in many districts, besides the grants in aid from the Privy Council.

The Chairman.—I gather from what you have said that your objection to permanently appointing any non-established clergyman as a member of the managing board of the school, on the ground that it would be unconstitutional, is so strong that you did not think it was right to have such ministers on the managing board even in a school privately founded by a Dissenter?—No; quite the reverse. I did not say that.

I understood your objection to putting the ministers of other denominations in, was that you held it unconstitutional?—I was making a permanent institution that was to exist as long as the constitution of the country. I don't think that, in such a case, you can suppose that there is any necessary permanence in any religious body, except the body that is established by the State.

And therefore, that even in such schools, there should be no such party appointed?—If a private individual founds a school, he may put in anybody he likes; and in regard to a school founded by a private body of Christians, it is quite proper that the management should be in their clergy.

Mr. Cook.—You have securities for the permanence of the Established Church clergyman which you have not in the case of Dissenters?—We have securities for the permanence of his existence in the parish, and for the opinions he maintains.

Is it not something also that the parish clergyman is a public officer?—He is a public officer.

Responsible to courts established by the law of the country?—Yes, he is responsible to the country, and the country have a right to impose duties upon him.

Lord Jerviswoode.—In Berwickshire there are several towns of moderate size, viz., Dunse, Greenlaw, Lauder, and Coldstream: do you happen to know what class of schools exist in these towns?—Both at Dunse and Coldstream there are middle-class schools. There are cases of clergymen and farmers sending their sons to board in Coldstream to attend the school there, and it supplies very much the place of a middle-class school. At Dunse it is an adventure school.

Is there such a school at Lauder?—I do not know of any school of that kind at Lauder, except the parish school.

Mr. Davidson.—As I understand, the constitution which you propose with reference to the parochial board is, that the parochial board is to be elected as now by the ratepayers, and it is hereafter to be part of their duty to elect part of the managers of the school?—I think that would be a good constitution.

So that the ratepayers, in electing the parochial board, would have that in view as one of its duties?—Yes; and I think there is an advantage in that rather than in electing them immediately as school managers.

Lord Belhaven.—Can you furnish us with a copy of the constitution which you framed for the school at Moffat?—Yes.

The Lord Advocate.—Do you know any school, the management of which is intrusted to persons elected by the parents?—No, I do not.

How is the Edinburgh Academy managed?—By persons elected by the shareholders.

They were originally mainly the parents?—Yes, and if the parents of children attending the parochial schools were men of the same intelligence as the proprietors of the Edinburgh Academy, they would make a very good body of men to elect a schoolmaster.

There are some burgh schools very well managed by the Town-Council, are there not?—Yes, and in burghs I think the management should be left to the Town-Council. A. C. Swinton.

Who are elected by the ratepayers?—Yes, but not elected *quoad hoc* for that purpose. I attach great importance to that.

The Chairman.—Then you really think that a body of men, elected to manage the poor, or the affairs of a city, are more likely to know better about a school than people elected for the special purpose of doing that duty?—They are not the men who are to do it. It is a double election. I don't propose that the parochial boards are to do it themselves, but they are to name managers, and I think they would select the best men. A small body, like the parochial board, is more likely to select good men without sectarian or other influences, than a large body of ratepayers. I want to avoid a popular election of schoolmasters.

Lord Ardmillan.—You think that, by that double process, you would discharge a good deal of the sectarian feeling which would exist in the first place?—Yes; besides, the parochial board are elected for their prudence in management.

Mr. Mure.—Have not the parochial board a distinct interest in education, inasmuch as they are responsible for the education of the paupers?—Yes.

It is part of their duty to look after education?—Yes, and in many parishes they pay for the education of a great number of children.

Mr. Black.—Are not the great majority of the managers of the Heriot Schools members of the Town-Council, who are elected by the £10 householders?—Yes, but they are not elected for that purpose.

Would they have been worse if they had been elected for the special purpose?—Yes; I think the mode of their election prevents agitation with reference to the subject of education, and the election of schoolmasters. And there are combined with the Town-Council the ministers of the city.

But they are a minority?—But I don't suppose they divide, clergymen on one side and laymen on the other.

[THE LORD ADVOCATE *here took the Chair.*]

MR. ALEXANDER CAMPBELL WEIR,—*examined.*

The Chairman.—You are a parochial schoolmaster?—I am a sessional schoolmaster in the parish of St. George's, Glasgow. A. C. Weir.

What is your opinion as to the operation of the parish schools?—In regard to the parish schools, my opinion is, that at the time they were established, they were perfectly adequate to the education of the country; but the great increase of the population which has taken place, and the fact that they have no expansive power existing within themselves, have rendered them totally inadequate. I think they extend only to about from one-fifth to one-sixth part of the whole schools existing in Scotland. They overtake, therefore, only to that extent the education of the country. In regard to the Privy Council system, its object is limited, and it does not attempt to overtake the education of the whole people. The means applied are inadequate even to effect its own object, and they have been arranged without any reference to the legislative and other educational appliances which exist in the country. The means themselves are objectionable in regard to the arrangements which are being carried out, and they have a demoralizing tendency on all parties concerned.

Can you mention any details to illustrate your view that the existing system does not overtake the wants of the country?—I think it is quite clear that the parochial schools fail to overtake the education of the country; the fact being that there are about 5000 other schools in the country.

How many parochial schools are there?—973.

And there are 5000 others?—By the census of 1851 the schools amounted to 5200.

A. C. Weir. Is the proportion of children attending these schools and the parochial schools about the same?—The number attending all the schools in the country was ascertained to be 368,000; taking the average attendance at seventy, that would give upwards of 5000 schools.

You cannot tell whether the average attendance on the other schools is the same?—I have attempted to test that, and it comes pretty near it.

So that you think the parochial schools don't accommodate above one-sixth of the numbers that are educated?—I am certain of it.

On what ground do you think the Privy Council grant system not calculated to overtake the wants of the country?—The object of the grants is to effect the education of a class; the object of the parochial schools was to overtake the education of the people. The Privy Council grant system is limited to the education of children of the working classes, and practically it fails to reach even that class.

To what extent?—To a very large extent.

Are you speaking from your own experience?—Yes, and from my knowledge of the country and the extent of its educational appliances. I have drawn up a paper which shows the number of the schools that have been aided, the population of each of the counties, and the number of children, taking one in eight, that ought to be at school; I have calculated also the number of children that are at the aided schools, taking the same data, and I find it varies in some counties from one-half of the population up to only one-thirteenth.

Can you give us an instance or two?—In the county of Sutherland one-half of the schools receive aid, and these schools are sufficient to admit one-half of the children of the proper school age.

That is to say, the aid-receiving schools are only equivalent to one-half of the children attending the schools?—Yes.

Do you include the parish schools?—I take the whole schools that are aided, partly parish schools and partly others. In Sutherland, twenty-one receive aid; the population is 25,793; the number of children that ought to be at school, if one in eight attended, is 3224; and the number in the twenty-one aided schools is 1470, which gives one in two.

In order to make that a complete vidimus of the state of education in Sutherlandshire, you ought to give us the number attending the parish schools?—I have not drawn up this table with the view of showing that, but for the purpose of showing the differences in applying aid to the wants of the community. Then in Renfrewshire, the population is 121,091; the proportion that ought to be attending school is 20,136; the aided schools are 31; and the children attending them, 2170, which is one in nine.

So that the aided schools only reach one-ninth part of the school-attending population?—Yes. In Clackmannan the population is 22,951; the proportion of children that ought to be attending is 2868; the aided schools are four; and the children attending them 280, which gives only one in thirteen.

Will you hand that table in?—Yes.[1]

Have you anything further to state as a practical illustration of the deficiency of the Privy Council system?—The object of the Privy Council system is to promote the education of the children of the working classes; and it is limited to the elementary instruction of that class; it is further limited in its application by denominational agencies. Local exertion depends very much on religious animosities, denominational rivalry, local wealth or poverty, local liberality or local parsimony, local ignorance and indifference or local intelligence and public spirit. The result is that the work is overdone in some districts, underdone in others; overdone often where least required, and underdone where most required.

Can you give us any illustrations of that?—Yes; in Stranraer, where there is a population of 6000, till recently there was only one aided school, a Free Church one, within a radius of three miles from the town, and no parish school nearer than four miles. In Cairnryan, where the population is 300, there were two aided schools, the one having twenty, and the other thirty scholars in average attendance. In the burgh of Renfrew, with a population of 2722, there are four schools: a grammar school unaided and a burgh school aided, and two female schools supported by two ladies; on the north bank of the Clyde, beyond the

[1] See Appendix of Documents, E.

burgh, but in the parish, there are two more: Miss Oswald's, Hillhead, aided; and Blairdardie unaided—connected with collieries. So that in the town of Renfrew, with a population of 2700, there are two aided schools, and the schools that are unaided are decidedly in the poorest districts; consequently the aid does not reach the class requiring it. In West Kilbride, with a very small population and a small attendance at school, there are a parish school, a Free Church school, and a female school of industry, all aided; not one of these could exist without aid, and one good school could do the work of all the three. In Fairlie, near Largs, there are two schools, neither of them aided; there was one in connexion with the Established Church, and the teacher had an endowment of £21 from the Earl of Glasgow. Immediately after the Disruption the Free Church school was erected, and it drew off the scholars attending the other school, and left the master with only twelve, the number in the Free Church school being only forty-five. The master of the Free Church school tried to get up a botany class, but failed, and was obliged to leave. The schools still continue to exist, but the attendance is rather reversed; there are thirty in the Established Church school, and seventeen in the other, showing clearly that one of them is quite unnecessary. In Largs there is rather an over-exertion on the part of the Committee of Council, in proportion to the population. In Barrhead, where the population is about 7300, there are ten schools, and only one aided, and that is the Roman Catholic school, showing clearly that the Privy Council, even in applying its own regulations, fails altogether to reach certain districts. A. C. Weir.

Lord Ardmillan.—In Barrhead, are not the schools chiefly set up by the employers?—No, there is only one school so set up.

The Chairman.—Have you taken these statistics from your own inquiries?—Partly, and partly from my own personal knowledge.

You are satisfied that they are correct?—Yes; I kept an adventure school in Barrhead for a considerable time, and I have resided in Largs and Fairlie. In Barrhead there is a school connected with the *quoad sacra* church, underneath the church, and application was made to the Privy Council for aid; an inspector was sent down, and it was found that there was a door which opened on a stair which led up to the church; the Privy Council wished that door built up, but because the managers refused to do so, on the ground that they required the communication, the grant was refused, and the school has remained unaided ever since. All the other schools in Barrhead, except the Roman Catholic school, are adventure schools, and unaided.

Do you believe there are many similar instances?—I believe, if full inquiry was made, they would be found very numerous.

Do you think these facts can be ascertained without a detailed examination of the country?—Not to the full extent, unless you apply to the parties locally acquainted with the circumstances.

Have you made inquiry into the state of education in Glasgow?—I have. I took a map out of the Directory, and dotted down in red ink the schools that I knew. Where denominational rivalry exists, the schools are grouped close together in various localities; where nothing of that sort exists, the population is left unprovided for. On the south side of the river there are two schools close together—the one the Gorbals Youths' school, and the other the Free Church Territorial school; there is another Roman Catholic school and one in Kingston: these are the only aided schools on the south side of the river, with a population of above 80,000.

To what do you ascribe that?—To the want of the denominational agency which has been effective in other districts, and the inability of the parish school system to reach that district, and also to the Privy Council not doing it without local exertion.

Are the schools adjoining each other on the map, generally schools of rival denominations?—Yes, generally they are Established Church and Free Church schools.

These are the aided schools only?—Yes.

Here are four schools together, what are they?—That indicates the Highland Society school; it has a large attendance, with four departments, and I put four dots to indicate these departments; I have done the same with the two Normal Seminaries.

Then you say that generally in Glasgow the aided schools are crowded together, and considerable populous districts are left without any provision?—Yes.

You think that the schools bear a clear proportion to the amount of religious rivalry that exists in many districts?—Yes; I think so.

A. C. Weir. Can you give us a notion of the population in Glasgow that ought to go to school, which does not?—I think 82,000 children ought to be at school, taking 1 in 8; and I think that of these there are 33,000 between the ages of 5 and 15 who are not at school.

Do you imagine that this 33,000 represents children who have never been at school?—No; I don't think so. The attendance of children at school is very irregular; some go for a very short time, and they may have been at school previous to the time at which the census was taken.

Do you think the 33,000 exhibits fairly the educational wants of Glasgow?—I do.

To what extent would any improved system overtake the educational wants of the country?—I think to a very large extent. If a commission were appointed to make inquiry and divide the country into districts, they could easily establish schools where they found them wanting, and make provision for the education of the children. But that alone would not do it. It is found that the demand for labour, and the desire of the parents to increase their gains, would lead off the children independent of any appliances. It could only be done by having an educational test for employment.

To what extent do you think a better distribution of the schools aided by Government would improve the education of Glasgow?—Very much indeed.

In what way would it operate?—It would bring the schools nearer the children in many districts.

You think that the locality in which the school is put down is material?—Yes; children are often induced to come to school, at least for a time, from the locality of the school, when otherwise they would not think of it. That is more especially the case in regard to parents who have no desire, or very little, for the education of their children. They are often influenced by their neighbours.

Have you any other statistics relative to the state of large towns or populous districts?—In Glenluce, with a population of 1000, the parish school had two pupil-teachers and the Free Church school had two pupil-teachers; there were in these two schools seven pupil-teachers in all, and only one remained in the profession. One good school, with one master and two assistants, or two masters and one assistant, would have been sufficient for the whole education of the district. With reference to the question of management, I may mention that at a school near Paisley, three years ago, there were five managers; two have left the district, and three remain; none of the three have been within the school during the three years, and the salary of the master remains unpaid for the last eighteen months; the salary will most probably be paid yet, but this is not surely the way to manage the education of the country.

What is the management in that case?—The subscribers to the school.

Mr. Smith.—Is it an adventure school?—No; an adventure school is where the teacher takes the whole risk. An improved system there would alter matters for the better.

The Chairman.—Is that an aided school?—Yes, it is.

Do you think the grants in aid are denominational in the sense of confining the education given to the children belonging to the particular denomination?—When the schools of the Free Church were erected, it was with the professed object of providing for the teachers who had been turned out of the parish schools; another object was to provide for the education of the adherents of the Free Church. There were several instances, among which I may mention Cairnryan, where the Free Church people would not send their children to the other school, and they got aid from Government, the result being that both schools are in a great measure starved, and a great deal of unnecessary expense is incurred by the country. I know one case where the Free Church teacher dared not be seen speaking to the teacher of the Established Church school. But the general feeling of the country has overcome that, and in most schools there is inter-communion between the children of the various sects, and I should say that, to the extent of more than half of the children attending schools, that is overlooked altogether.

You think the public opinion of the people has been against making denominational distinctions?—If such an opinion exists, I can only say that their practice does not correspond.

Do you think that any other plan of a more uniform and national character, based upon an extension of the existing parochial system or otherwise, and better

fitted to overtake the educational wants of the country, could be substituted for the Privy Council grants?—The suggestion which I have to make is—1*st*, That elementary schools, on the model of the parish schools, should be established for all classes in suitable districts, and that schoolhouses ought to be erected, not only for the poor, but for all classes of the community; there would be better accommodation, and it would be cheaper, if it were done on a uniform plan adapted to the wants of each district, than if it were left to adventure teachers or others to supply it. 2*d*, That there should be schools—on the model of the grammar and burgh schools, intermediate to these elementary schools and the Universities—established wherever required, to prepare for the college, the counting-house, and the other requirements of society, and having a separate department in which females might be taught the higher branches. A. C. Weir

What is your view as to the management of the elementary schools?—I think it should be local.

And how constituted?—The management of the schools should be local; and in burghs it should be vested in committees appointed by the Town-Councils; in landward parishes in committees appointed by the ratepayers; and in all cases in which the teacher's character or interests are to be considered, he should be required to attend, and the right be secured to him of being present at all such meetings.

Have you any apprehension that the ratepayers would elect improper people to manage the schools?—I think there is a very general feeling that unless care is taken in the selection of the committee, it would not always act harmoniously.

Do you think the ratepayers could be trusted to exercise that right?—I do, on the whole.

Do you judge of that from your own experience?—I have not had much experience of committees, but I have heard others express their opinion.

Is that opinion generally shared by your brethren in the profession?—It is, so far as my intercourse with them has gone.

Schoolmasters generally would not be afraid of a board elected by the ratepayers?—No.

You propose to have an intermediate set of schools under the general system, between the elementary schools and the Universities?—Wherever the present burgh and grammar schools do not overtake the higher education of the country, and in large towns such as Glasgow, and in other towns where the population is pretty extensive, a provision of that kind ought to be made.

Do you think the population of these towns would send their sons to the upper schools?—I think a large number would. At present, in many cases, they have to be sent a great distance. The very highest class probably would not, but I think the middle and tenant-farmer class would do so.

How is the High school in Glasgow attended?—Very well,—better than ever I knew it.

Is the classical department well attended?—Not quite so well; it is more the commercial branches that are sought after. The classical department has rather been going down; not within two or three years, because the attendance, I understand, has been greater, but for a series of years up till this it has been going down.

Is that such a school as you would have upon your plan?—Yes; and the Glasgow Academy is another.

Do these answer the object in view?—To a large extent. They are substantially middle schools between the elementary schools and the University.

Do you think there is any difficulty on the question of religious instruction?—I don't think it. The country has hitherto been quite satisfied with the provision made for giving religious instruction in the parish schools; and I think it would be quite content if the same system were put in operation in any new schools that might be established.

Do you think the presence of the minister, as one of the managing body along with the heritors, is essential to secure religious instruction?—I think not.

For what reason?—Under the present Act the minister has nothing to do with the religious instruction; it is in the hands of the examiners, who fix the subjects to be taught.

Do you think the religious teaching of the parish schools would be safe even if the minister were not on the board?—The only security which his presence afforded was, that in the Act of 1803, he gave his voice for religious instruction;

A. C. Weir. but if the heritors were of opinion that religious instruction should not be given, I do not see that the minister had any power to enforce it.

Do you think the religious instruction would be different if the minister were not on the board?—No, I don't think so; it takes place in deference to the general opinion of the public, and not from the individual feeling of the parish minister.

Then you would have no fear of religious instruction being properly given in any new system, if it were left to be regulated by public opinion?—None whatever.

In point of fact, the religious instruction is substantially the same in all the schools?—Yes; I know that a clergyman of the Established Church in Glasgow has sent his sons to the Glasgow Academy, which was chiefly under the management of parties connected with the Free Church; and I have known a clergyman connected with the Free Church send his sons to be taught at the High School, the masters of which are of several denominations.

Do you think any provision should be made by Parliament for religious instruction?—I think not. I am quite content to leave it as it has been hitherto.

As to the Old and the New Code, can you explain what was the operation of the Old Code,—what grants did you get under it?—An augmentation salary of £20.

On what conditions did you get that?—On the condition that I should submit to an examination fixed in London, and carried out by the inspector in the Normal School of Glasgow.

You are the master of a sessional school?—Yes.

Do the Privy Council require a contribution from the session?—They require a contribution of double the amount of the augmentation grant, and a house rent free, or £10 in lieu of one, but the contribution may be made up half of voluntary contributions and half of school fees. But I know many cases where the contribution has not been paid by the parties acting as managers of the school, and it has, in many cases, been evaded.

Where they have got the grant?—Yes; and where in reality no voluntary contribution was paid.

That is an evasion of the minutes?—Yes; and that obtains to a very large extent. I know one town where three schools have got the aid, with a nominal salary of £25, and not a farthing of that was really paid to the teacher.

Is that general?—I cannot say that it is general, but it obtains to a large extent. I know another school in Glasgow where the teacher paid a rent of £60 for the school buildings, and bought and sold the goodwill when he entered the school and left it, and the grants were given for a series of years, and, according to their own regulations, not a farthing of these grants should have been paid. I know another school in Glasgow where the teacher pays a rent of £40, instead of receiving a voluntary contribution.

How do you mean?—He pays a rent to the managers for the use of the school buildings; and in the case I mentioned before, the teacher also paid a rent of £60 for the school-buildings, but not to the managers.

But these grants must have been obtained on a representation and obligation by the managers that they would pay the amount?—I cannot say what representations were made, but I know that it is a fact.

The Privy Council requires some obligation from the managers to make up double the amount they grant?—Their conditions are such, and it is the duty of the inspectors to ascertain that these are fulfilled.

But in the cases which you have mentioned they were evaded?—Yes; and inquiry made into these particular cases would bring out the whole facts.

Have you any objection to mention the cases to which you refer?—I would rather not. I have no wish to inculpate any individual.

What else have you from the Privy Council grants,—is anything allowed you for pupil-teachers?—I have two pupil-teachers, and I am allowed £5 for the one and £4 for the other. That is allowed on condition that the pupil-teachers pass the examination required.

Is that all you receive?—Yes. There are other conditions attached to these grants: the instruction given in the school must be satisfactory to the inspector; the discipline of the school must also be satisfactory.

Is it a condition that the children shall be children of the working classes?—Professedly it is so, but the aid has not hitherto been limited to them in Scotland.

There are many cases where children attend these schools in Glasgow, and elsewhere, whose parents are able to pay the highest fees. A. C. Weir.

The original principle of the grant was that it should be given for schools attended by the children of the working class?—Yes; but they could not well carry out that in Scotland. In England, where the schools have been the result of the Privy Council grants, it was more easily effected. In Scotland, the classes attending school mix to an extent which they do not do in England, and therefore it was found impracticable to apply it in ordinary cases here.

Will you explain the change which the Revised Code has made on these matters?—It has done away with the augmentation grant altogether. The teachers look on that as a very great hardship. I myself was in a country school at the time the Minutes came out in 1846, and I certainly was induced to submit to the examination, with the prospect of the augmentation being continued, and there was also the promise of a pension being allowed after fifteen years' service.

But you are aware that these Minutes only professed to be temporary?—I was not aware that the minutes made such profession. So far as Parliament was concerned in voting the money at first, they might be temporary, but in regard to the relation between the Privy Council and the teachers, they were the reverse.

As to the grant, you seem rather to indicate that it has been very much abused?—Certainly.

Is not that a good reason for revising the system?—It is a good reason for making a change, but scarcely for imposing a hardship on the teachers who were in receipt of the augmentation.

You think the teachers were entitled to look on it as permanent?—I think so, because the arrangements of the Privy Council embraced a period of twenty-two years, no temporary arrangement, and these arrangements obtained the sanction of Parliament.

You think that at the beginning you were entitled to assume that it would be permanent?—I think so, from the expectations held out to us.

And that it is unjust to deprive the existing teachers of that augmentation?—Yes.

Instead of that augmentation grant, what would you receive under the Revised Code?—In general, the whole of that augmentation would be lost to the teacher.

Take your own case.—I made a calculation that the money likely to be drawn under the Revised Code would be only sufficient to pay the pupil-teachers. The inspector concurred in this calculation.

For what would that be paid?—£20 would have to be paid to each of the pupil-teachers for the present year; they are both in their fifth year. That would absorb nearly the amount of income probably to be derived from the children of the working-class attending the school.

What is the payment fee under the Revised Code?—The amount of payment is so much per child, varying from 4s. to 12s. 4s. is given on the average attendance. For children under six years of age, who are not subjected to individual examination, 6s. 6d. will be allowed, and as to other children, who are subjected to such examination, it depends on a great many conditions whether or not they earn the money.

Do you think it a bad principle that payment should be made for results?—I do; you cannot ascertain the results in the manner attempted to be carried out. Many of the labours of the teacher will not be shown at all in that examination; and they only pay for a portion of the results, so far as his labour is concerned.

How will that affect the higher branches?—Very injuriously. I know that in some schools the examination under the Revised Code was only as to the three R's. Before the suspension of the Code took place, I had a letter from a parochial teacher, stating that the inspector visited his school, and that not a single question was put on anything but reading, writing, and arithmetic; no question was put in religious instruction, geography, or grammar.

Do you think it will lower the standard of education generally?—Very much; the amount of income depending on the examination of the lower classes on the six standards, would induce the teacher to devote himself chiefly to these, to make sure that he would receive the money at the examination, both on account of his income and character depending on it, leaving the other to haphazard in a great measure.

Don't you think that the old system spent a great deal of money without any

A. C. Weir.

result to the public?—A very large sum indeed; and not only so, but I think the administration of it is very expensive. I think the whole benefit of an improved education could be got in Scotland without the expensive administration of the Privy Council system. I made a calculation some years ago, when delivering an address to the teachers in Glasgow, that from the time the grants were made up to that time, £73,000 was paid to the inspectors and other administrators for administering the Privy Council system, and only £75,000 was paid to the teachers in the way of augmentation, etc.; so that about an equal sum was expended on administration and on the parties who were really doing the work. If you contrast that with the parochial system, where every farthing of the money raised goes to uphold the school and pay the teacher, you will see the great advantage in favour of the parochial system.

Supposing it were found impossible to set up a new or extended national system, have you anything to suggest by way of improvement on the Revised Code?—I can scarcely suggest any improvement. I think its whole principles and practice are so bad that it would be folly to touch it. The regulations of the parish schools are made by Act of Parliament, and, of course, cannot be changed; the regulations of the Privy Council have been made irrespective of these other regulations, and the two cannot dovetail. The consequence is, that in order to get the grants at all, a great deal of misrepresentation and concealment have to be resorted to. Then, in regard to the ascertainment of the 200 attendances, the occupation of the parents, their associates, their ability to pay 9d. a week, etc.,—these things have all to be ascertained by the teacher; but the Privy Council requires that at least three of the managers shall sign the schedules; but the managers know nothing about these, and no effort is made by the inspectors to verify them.

Do you think that by the denominational system of grants any satisfactory system can be secured, which will give due security to the public that the money is properly expended?—I do not.

You take a considerable part, do you not, in the Educational Institute?—Yes.

Do you know how far your profession coincide in the general views you have given us?—I think they coincide to a very large extent. I may state that a very large number of the parochial teachers are members of the Institute, and a very large number of other teachers scattered over the country. If there is any difference of opinion, it is in regard to the parochial schools. The parochial teachers are unwilling that any important change should take place in the constitution of these schools, and that nothing should take place to affect their interests. With that exception, I think they are nearly all at one. The opinions of the others are not wholly antagonistic even there; but some have suggested that the new schools should be fused with the parochial schools, making one uniform system.

Do you think there is a general coincidence of opinion as to the disadvantages of the denominational system?—Yes.

Does the new University Board of Examiners introduced by the recent Statute give general satisfaction?—I think I have been informed that it does. In a few instances, I have heard it said that the examination for the lower class of the parish schools is rather easy; that is, where the salary of the parish school has been fixed under £50, the examination is considerably easier than it is beyond that sum; but I have heard no other complaint, and I don't know that even that is general.

Mr. Dunlop.—Is it not the case that the managers must make a return, not of what they have agreed to pay, but of what has actually been paid?—That is so.

Then, in order to get the money, in the cases you have mentioned, there must have been false returns?—Fraudulent returns in some way or other.

You have reason to believe that that is done to a considerable extent?—Yes; and I know also from the conditions laid down in the Minutes of Council, that it is the duty of the inspectors to verify these returns.

What is your view with reference to the system of pupil-teachers?—My opinion is that they have failed altogether to effect the object that was intended. In the first place, boys are appointed at too early an age, when they cannot know anything of the principles of the human mind, or how to act upon it. They have been generally pupils in the schools they are called on to teach, and no respect is paid to them. They are altogether of too boyish a character.

Suppose you required assistance, you would prefer it in the shape of an assistant?—Yes, a trained assistant more advanced in years, and having acquired knowledge by his own exertions, and more willing to devote himself to education.

A. C. Weir.

You seemed to think that a Parliamentary Commission would be necessary to set down the additional schools?—Yes; in the first instance.

Suppose that were once done, would you consider that the jurisdiction of the Sheriff would afford sufficient means for establishing any additional schools that might from time to time be required; or would you think it necessary to have a permanent commission or board to overlook all these matters?—I think that could be effected in two or three ways; in the first instance, it could be effected by a commission existing for a term of years; and then at an interval of years it might be necessary to reappoint the commission to make a re-arrangement. Or it might be left to the Sheriff to enforce whatever was required as necessity occurred. In either case, I think it might be left wholly to the inhabitants of the district, if the law was clearly laid down, to take the initiative.

Do you find that your brethren in the subscription schools complain of the interference or oppression of the boards of managers?—Not generally; though I have heard instances of it.

Would you think it a desirable thing that any bodies of managers should be under the control of some central authority?—If the law laid down their duties, as is done in the case of heritors, I don't think any controlling power would be necessary.

Do you think that the schoolmaster should have a life tenure of his office, excepting for some fault?—I think that is absolutely necessary.

Would you be satisfied with the state of matters in which burgh schools are now, in which the magistrates are obliged to assign the cause, or would you require that they be tried and dismissed by some tribunal?—I think the present Parochial School Act is quite satisfactory in that respect. The Sheriff tries for cruelty and immorality; and there is another mode of trying for neglect of duty, and these are the only causes of suspension or dismissal.

You are aware that in burgh schools the magistrates are entitled to dismiss for reasons assigned?—I am not aware of that; I have heard the contrary opinion expressed.

You would not be satisfied with that?—I think the teachers would not; and I think they would have reason not to be satisfied with it. The public have a guarantee in the licensing of the teachers for their literature and ability to teach and they have another guarantee in the appointment. If, after appointment, any one neglects his duty, let him by all means be suspended or dismissed. If any one becomes inefficient from other causes than neglect, let him be pensioned; but I think a permanent appointment is necessary to give security to those that are willing to discharge their duty faithfully and efficiently, in order that they may exercise discipline without fear of immediate consequences. This security is as necessary to the teacher as it is to the judge in the dispensation of justice.

You said your school is in St. George's parish, Glasgow?—Yes.

Is the supply of schools sufficient in that parish?—The accommodation is more than sufficient for the children attending.

Supposing you could get them to attend, according to the numbers in the parish, is there sufficient accommodation and provision for education for the children in that parish?—In the immediate district there is, but I don't think for the whole parish, because the parish is very much scattered. In some districts, such as the Cowcaddens and the Broomielaw, there is a large population.

Then you think the school accommodation is not quite adequate?—I think it is not quite adequate in some parts; but in others it is more than adequate.

Lord Polwarth.—You think great improvements might be made on the whole system of education in Scotland?—I do think so.

Has your experience been great?—I have had considerable experience extending over twenty-five years.

In any large parochial school?—No; I never was a teacher of a parochial school.

But in a sessional school of considerable magnitude?—No; it is not one of the larger schools in Glasgow. There are some much larger. There is one in St. Enoch's parish where the attendance is upwards of 1100; and there are others where the attendance varies from 200 to 300.

What may the attendance at yours be?—It generally runs about 120.

Do you think there is sufficient school accommodation in your district?—There are six schools within a very few yards of each other, close to where I am. There was a Free Church school at one time planted directly opposite, in the same

A. C. Weir. street; but it removed to College Street, and they applied for aid, but could not get it for eight years. Latterly they have got aid.

Then your actual knowledge of teaching is confined pretty much to the management of a school of 120?—No; I have been engaged in teaching privately as well. I have had experience in several private schools in Glasgow.

As head of the schools?—No; as an assistant. I had a school also in Barrhead.

Then your experience is chiefly confined to this school of 120?—In the meantime it is.

Formerly was it in any considerable school?—No; not larger in attendance. I was engaged for a time in teaching one of the departments of the Normal School, where the attendance was 150; and I have had 150 in my own school.

Mr. Smith.—As I understand, there are two ways in which money is given to the teacher: the one is with reference to attendance, and the other is with reference to the children passing an examination?—Yes.

What is the amount given for the first?—Four shillings for each child on the average attendance.

How many attendances must there be for that?—The attendances are not limited.

Must there not be 200?—That is for general and individual examination. The average attendance made up from the registers decides the amount to be earned for the first payment.

Is there no minimum amount of attendance which would exclude a child?—No.

How much is the second payment?—Six shillings and sixpence for each child under six years.

Provided he has attended 200 times?—Yes; there is a limit as to attendance. That is required for those who are to be examined. There are three payments, first, a payment of 4s. on the average of all children of the working class attending the school, but not limited to 200 attendances; second, 6s. 6d. for children who are under six years of age, and who are not subjected to individual examination; and the third payment is according to the subjects passed individually by all children who have attended 200 times.

So that there are three ways by which the master is remunerated?—The master may not be remunerated in that way. His remuneration will depend on his engagement with the managers.

Then so far as regards the difference between the augmentation grants and the Revised Code, it will depend not only on the number of attendances, but on the number of children who have attended so many times, and who are able to pass the examination?—I think so.

Take a parish where there is a scattered population, and few children, the augmentation in that case would be a great deal better for the schoolmaster?—Very much better.

In the case of Glasgow, where there are large schools and large attendances, the Revised Code would be a great deal better for the master?—That would depend on the age of the children; whether they were regular in their attendance; whether present on the day of examination; and also on the condition of their parents.

But taking the general case, how would it be?—It would be better.

You think it would lower the standard of education?—I think so.

You don't think the system of pupil-teachers has attained the object intended: what was the object intended?—To train up teachers for the country, and to give effective assistance in the schools.

Has that not to a certain extent been carried out?—To a large extent, but not anything like to the full extent.

How do you mean?—I mentioned a case where seven pupil-teachers passed through two schools, and only one remained in the profession.

Was that after they passed the Queen's scholarships?—No; they completed their pupil-teachership, and passed on to other employments.

But so far as the result of having teachers is concerned, there are plenty of teachers?—So far as the number of teachers is concerned, it has over-met the want to a considerable extent.

Which Normal School were you attached to?—The Established Church one in Glasgow.

From your experience, would you say that one Normal School was sufficient for Glasgow?—Certainly more than sufficient for Glasgow and the district; but a very large number of students were trained in the Glasgow Normal School

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who went to England; in fact, the larger number of the schools in England were supplied for a long time by students trained in Glasgow and Edinburgh.

I suppose the Normal School is efficiently managed?—So far as I know. I cannot speak of the management of it for a number of years back.

In your proposed new national system, you don't contemplate that any aid is to be given by Government at all?—So far as I have submitted the scheme to the Commissioners, I contemplate that the grants should be continued to Scotland, equal in amount to what they have hitherto been; but that they should be managed in a different way.

In what way?—Given as an endowment to the school on a permanent footing, so that the conditions which have been in practice, with such injurious effects, should, I think, be done away with, and other securities taken for the proper discharge of the duties of the teacher.

Would you not have Government inspection?—No, I would decidedly prefer a number of examiners to examine the pupils after their course of instruction was completed. That would give far greater security to the country that the money was properly expended than the reports of inspectors. These examiners would effect the purpose of making the examination at the intermediate school an entrance examination to the College, which would tend very much to raise the standard of education in the country. It would also be a test for employment, satisfying employers that the children had been taught the elementary branches. We also find that in regard to public competition, our volunteer system has immensely improved, and it has been altogether voluntary on the part of the parties engaging in it. If the schools of a district were brought together, the one school competing with the other in regard to the number of scholars that they could bring up to pass the standard required, I think a much more wholesome stimulus would be given to the parents and the teacher; and it would be ascertained satisfactorily to the country whether the work was properly done.

Mr. Black.—Do you consider the system of the Privy Council grants a good system for education in Scotland?—I do not.

You think there should be some public grant for the support of schools in Scotland?—Yes, so that Scotland may get her proper share of the money which is voted for the purposes of education in the country.

Is it because a certain amount is given to England, and because you think Scotland should have her fair share?—Clearly.

But supposing the system were put an end to altogether, don't you think that a system, on the same plan as the parish schools, could be carried out for national education in Scotland, without any grant from Government at all?—I do think so.

How would you provide for religious instruction in districts where the great majority of the people were Episcopalians or Roman Catholics?—I think that should be left to the committee erecting the school, as it is left just now to the examiners in regard to the parish school. It is left to them to say whether religious instruction ought to be given; so the parties erecting the school, where a large population of that kind exists, would make provision for that; and the population of the district, knowing that religious instruction of a certain class was to be given in the school, while religious instruction, a little different perhaps, was given in another school, would select the school for their children according to their own wishes. That would regulate itself.

But if it was erected in a district where the majority were Roman Catholics?—They should have accommodation for the instruction of their children.

Should they have it in their power to have a completely Roman Catholic school, taught by the priest?—Where the ratepayers were a very small minority, there could be a provision that if the children amounted to a certain number, and they could not get the instruction they wished in the chief school, provision should also be made for them, it might be in a separate room of the same building, at the public expense.

Do you think it necessary that the parish minister, or any other minister, should be in the management of the school, in order to secure religious instruction?—I don't think that any minister, as a minister, ought to be appointed on the committee; and the committee should alone have the right to say whether religious instruction should be given in the school, and of what character.

If a schoolmaster of good character is appointed, don't you think that the best security for a good religious education?—Certainly; they have a very good security in the appointment of the man.

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Mr. Cook.—Do you purpose to alter the board for managing the parish schools, now existing?—No. I have not gone on the supposition that an alteration of the present parish schools was desirable; but I certainly would have no objection, and would almost prefer it, if that course were seen to be practicable, that the whole should be fused into one system.

You would have no objection to that; but your proposal had reference to new schools, and contemplated that the parish schools should remain as they are?—Yes, untouched, or touched to a very small extent.

You said that there were in Scotland about 5000 schools other than parish schools: have you any idea how many of these are schools in burghs and populous places, and what proportion of them are in the rural districts?—No, I have not made any calculation of that. I should think they are pretty equally spread over the whole country. Wherever inadequate provision is made by the parish school, or subscription school, or denominational school, we find an adventure teacher starts up, sometimes of a very worthless character, but sometimes very efficient.

Do you think the parish schools are as inadequate to supply the wants of the rural parishes, as they are to supply the wants of the large towns?—No, not to the same extent; but in some districts they are as inadequate.

In what districts?—Chiefly in the mining districts, where a large population is collected together.

But in the ordinary rural parishes that is not the case?—Not to such an extent.

You estimated the total number of children in Glasgow not attending school, who ought to be attending, at about 33,000: is the non-attendance of these 33,000 attributable solely to the want of school accommodation?—No, there is more accommodation than is taken advantage of.

A good deal more?—Yes.

Have you formed any estimate of the actual want of school accommodation to supply the wants of the country?—No, I have not; but I should say that somewhere about 3000 new schools would overtake the whole country; that might embrace schools at present existing; I mean in addition to the parish schools.

In Glasgow, what is the actual want of accommodation?—If the 33,000 were attending school, there would be a very considerable deficiency of school accommodation.

You stated that your improved board should be composed of ratepayers or representatives of ratepayers: who do you mean by ratepayers?—Those on whom the rate for the school is laid; and I would propose that it should be laid on equally over the whole parish, in the same way as the present poor-rate.

You propose to extend the school-rate, so as to make it as broad as the poor-rate, and that the board should be a representation of these ratepayers?—Quite so.

Lord Ardmillan.—Don't you think that in many schools it would be an advantage if there was power to appoint an assistant?—I think so; and I think provision ought to be made for the payment of these assistants. I think when the attendance increases up to a certain extent, an assistant ought to be appointed, and the means of remunerating him should be got in the same manner as the salary of the teacher. Perhaps he should share in the endowment derived from the rate, and be dependent, to the extent of one half of his salary, on his efficiency in the school.

You would not propose to have an assistant appointed who should be otherwise than subordinated to the teacher?—No, in no sense; and any provision made for the teaching of the industrial branches should be upon the same footing.

Monday, 12*th December* 1864.

THE LORD ADVOCATE IN THE CHAIR.

REV. DR. MUIR,—*examined.*

Rev. Dr. Muir.

The Chairman.—What is your opinion of the operation of the existing parochial schools, and Privy Council system of grants in aid, in providing education

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in Scotland for that portion of the community for whom the parish schools were originally set on foot, and how far the operation of these systems is sufficient to meet the requirements of the different parts of the country?—I must own that I am almost doubtful whether you are not unnecessarily occupying your time by having before you such a witness as I am. First of all, I have no experience whatever of the operation of the system which has been set agoing; I have no facts to give, and from the origin of it I had fundamental objections to it, which I have never seen any reason to put aside. The interference with our parochial system, I think, has been deadly, and I think, going on, it will injure our parochial schools as Church of Scotland schools, and, above all, as Bible schools.

In that last observation, do you refer mainly to the Privy Council grants in aid?—I do. I was for a great many years the convener of the Education Scheme of the Church of Scotland, and had to do with the erecting and forming of the Normal School, but I felt myself under the necessity of resigning my convenership in consequence of the Church of Scotland, through her General Assembly, affiliating herself with a scheme which I considered detrimental to the educational interests of the country, and more particularly to those educational interests as connected with what is the supreme object of all,—the religious training of our people.

Supposing that these Privy Council grants were abandoned, either on that ground or on any other, is it your opinion that the parochial system as it stands, without these, is sufficient to overtake the education of the country?—No, I don't say that; but in so far as the Church of Scotland, with her great implement of usefulness, was concerned, my earnest desire was that she should have been left alone, and that out of resources of her own she should have raised what money was necessary; but by becoming a stipendiary on the Government grants, being subjected in her schools to Government inspection, through agents who were accountable not to the Presbytery, but to a board centralizing everything in London, and bringing schemes of education of their own into play, carrying these into effect by Government bonuses, which would tell naturally on our teachers. I think all that went to the suppression of the godly system of our forefathers. But it is quite unnecessary for me to enter on a subject of this kind, because I know quite well that I have not sympathy with me in these views. They are views, however, which I took up seriously; they are views which I never can abandon, and in so far as my own precious session schools are concerned, as long as I live they shall never be affiliated to the Committee of Council.

Do you think that practically the Privy Council grants have operated in the way that you feared?—I would just take as an example those precious schools in the Highlands, which could not be overtaken by anything but the plan which the General Assembly fell upon,—an education scheme for the purpose of raising side-schools. It was going on flourishingly; but what is the result now? It is this, that since the operation of the Government scheme we have had no means of getting teachers, and for this reason—a high standard of educational requirement is required on the part of your teachers. They have douceurs given to them for the purpose of pushing them up as high as they possibly can in the scale; and you have an arrangement not only for plain substantial branches of education, but for ornamental and sensational branches,—the studying of plays, and going to playhouses, for the purpose of getting more thoroughly into the spirit of the tragedy, and making themselves highly qualified in the fine arts. You will not get a person so qualified to go away and labour in the glens of the Highlands; and hence it is that a great number of our schools have been thrown out of teachers.

Because the standard of acquirement, on the part of the schoolmasters, has been, if not raised, altered by these grants?—There was an old class of teachers in Scotland, whose whole object was to make the children well conversant with the Bible and the Shorter Catechism, and to give them writing and counting and good reading, so as to fit and prepare them for being decent, virtuous, and godly members of society. I think we want very much that class of teachers; and it is only such a Church as the Church of Scotland that can have these, because one of my great objections to the plan of the Government is, that the design of it goes to the fitting out of just one class of teachers. Now the class of teachers fitted for a great city like this is not the class of teachers fitted for the locality to which I have been referring; and each locality has its peculiarity,

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and that peculiarity is to be judged of by the local board, and that local board is the Presbytery. These are my views.

You are aware that the Revised Code has, to a considerable extent, altered the principles on which the grants are to be given, and professes, at least, to give them by results ascertained by examination in the elementary branches: is it your opinion that that would be preferable to the existing mode, in which the grants are distributed?—The truth is, that I have a radical objection to the whole arrangement. The whole plan emanates from a board centralized in London, with its own particular views as to the mode of carrying on education. There are Government inspectors, and the emoluments of the teachers very much hinge upon the report made by the inspector. He comes down saturated with peculiar views of the best plan of education, and the teacher is almost involuntarily drawn into concurrence with what he perceives are the views, designs, and plans of the inspector, who has his instructions from above; and therefore my thorough conviction is, that so far as the Church of Scotland is concerned, we ought to have the superintendence of that local board, which we call the Presbytery, without any interference.

Then would you dispense altogether with Government aid?—I should like very much to have Government money, but not on conditions. In my own precious schools I got Government aid previous to this, when there was given a *quid pro quo* from the Treasury Board. I received that, and the school was built with it, and the only obligation under which I came—a most reasonable and proper one—was, that whenever the house was turned to any other purpose than an educational one the money should be refunded.

You think that, upon some similar arrangement, the Government money might be beneficially distributed?—Most assuredly.

Would you describe the constitution of your sessional schools, and how far they have been successful?—The congregation raised so much, and the Treasury gave us so much, and the school was built. We have three distinct classes under the roof. The one is a very precious one, and I should like very much, for the interests of the country, to see it widely spread,—I mean the infant school. I am thoroughly persuaded that an infant school, conducted as an infant school ought to be, not with any attempt prematurely and unnaturally to cram the minds of infants, but by gentle treatment, and giving out to them as much as they can take in; by attending to their health; by proper exercise, along with all kindly superintendence; and, above all, saturating their minds from the earliest period with the truth as it is in Jesus, in such portions as they can receive,—the benefits arising from such a school as an infant school so conducted are inestimably precious; and during a very long experience in parochial management, I have found that it is the true foundation for the succeeding classes. In the infant school, the boys and girls are brought together, but when they get to a certain age the boys are drafted to the boys' school, and the girls to the girls' school. I have three classes, and throughout the year we instruct very nearly 600 young persons from the parish and the neighbourhood; but the infant school, well conducted, lying at the basis, is, I think, most precious.

Of these 600 children, what proportion belong to the infant school?—We have at this moment 170 or 180 on the list of infants. I think our teacher has almost never any day less than 140 or 150, and she is the very perfection of a teacher; she keeps them in perfect order, and that through the instrumentality of unmingled gentleness. And then it is a great relief to the minds of the children's parents, who are obliged to turn them out of their houses to have them cleaned and put in order, that instead of having these little creatures crawling in India Place or Jamaica Street, at the risk of being run over by carts, they are the whole day in the school amused and receiving a certain amount of education.

Do you trace these infants from the infant school through the upper classes for the most part?—Yes, and find them improved scholars. I may mention that there are more cases than one where these little creatures, carrying into their parents' houses scraps of Divine poetry, verses of Scripture, moral lessons, religious truths, have actually been what you may call teachers of righteousness to their parents, diffusing a leaven almost of holiness in their houses.

You say the infant school system has continued for a considerable period with you?—We have had it ever since I had a school in St. Stephen's.

What is the population of your parish?—It is about 6000; but a very large

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portion of it is in Heriot Row, Royal Circus, and Moray Place, though I look on that part of the parish which comes more particularly under the superintendence of the minister and kirk-session, as consisting of Jamaica Street, in which small street there are crammed no fewer than 1200 souls; also India Place, in which there are from 800 to 1000; then there are the purlieus of the lower premises in Cumberland Street, and likewise the west side of Pitt Street, in which places there are, I am sorry to say, not only second sunks, but third sunks, so that many of the poor families are living almost in Stygian darkness. It is that population which I consider that my excellent elders and myself have the superintendence of; and they are looked after through district visitors from members of the congregation, male and female, and through the instrumentality of Bible-women and missionaries.

Does that population alter much, or does it remain pretty stationary?—They are perpetually changing their houses, but they do not go out of the locality.

In regard to the other classes in your school, how are they conducted?—The old adage is a true one, that the teacher is the school, and under God's kindness we have always been directed to good teachers; but I think my two elders, who are present here, will bear testimony that we never had in St. Stephen's three such teachers as we have at the present time.

Do the children pay fees for the most part?—They do,—very small fees. A number are educated gratuitously; but I am thoroughly convinced from experience that it is a desirable thing, for the success of a school, that the parents should pay a fee, even though it should be very small.

It keeps up the feeling of independence?—Yes, and they value it more.

Do even the infants pay?—Yes, a very small sum, regulated by circumstances.

Have you any means of keeping your eye on the pupils after they leave your school?—Yes, we have, in many ways: 1*st*, they are connected with our Sabbath-schools, and the teachers of our Sabbath-schools take a very particular interest in those that attend their classes. There are some of the teachers who, for a good while back, have kept up annual meetings with those who have attended their schools; and from time to time there are most pleasing interviews and correspondence with those who have been attending the schools, and the result, as far as human eye can trace, has been very favourable.

Have you the means of judging what amount of the population of these districts are without education?—Yes; and I don't think there are almost any. There are from time to time children who are neglected; because I am thoroughly persuaded that though you were to build two or three schools in every street, there are parents who are so extremely careless that they would not send their children, or who are tempted to employ even the very youngest of them in some little domestic employment; but on the whole, I would say that there is no lack of the means of education. In that district there is none, because there is a very excellent school opposite the Edinburgh Academy, namely, the Henderson Row District School, and there is St. Bernard's School in Dean Street, besides my own.

Then you think that in that district, at least, the means of education substantially overtake the population?—I think thoroughly, in so far as the population are disposed to avail themselves of the benefit.

Then there are not many children growing up there without having the means of education?—There are not.

Mr. Dunlop.—From the number of people in good circumstances in your parish, you have facilities in establishing and keeping up schools which would not exist in poorer parishes?—No doubt. The congregation is willing and ready at all times to come forward and give whatever assistance is necessary, so that I hold in that way very peculiar vantage-ground, because the facilities which I have of access to the kindness and beneficence of my people are very great, and these wants are supplied.

You stated your great objection to the present system of Privy Council grants to be the bearing that the grants administered, on the report of inspectors, have on teachers?—I do feel that is a sinister influence.

Suppose, instead of grants made to individual schoolmasters by the Privy Council on the reports of the inspector, that the public funds appropriated to education in Scotland were apportioned, not to schoolmasters, but to parishes, to be distributed by some local authority, if the authority were a satisfactory one, would that obviate your difficulty?—There is no doubt that if at the time when the General Assembly of the Church of Scotland affiliated itself with the Government

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scheme, they had endeavoured, in some way or other, by getting grants directly from Government, to have had sufficient means of carrying on their own parochial plans, that would be in my opinion by far the wisest and the best course.

Is the Presbytery the only local board which you think could be trusted for conducting education?—Taking up our ancient parochial system, I know no board except the Presbytery which I would be disposed to trust.

You would fear that without it you would have no sufficient security for the religious education of the people? One does not like to express a suspicion with reference to the religious principles or views of persons who may be in the superintendence of a scheme of that kind; but it strikes me that that is the only security that I feel I could have,—the Presbytery, under the direction of the General Assembly; and having its own precious evangelical standards as the grand groundwork of religious instruction; but what I own I am terrified for is, the introduction of a plan by which there will be a total separation of secular from religious instruction; and I own I have always been much impressed by what I saw some years ago—a map of education in France—in which there was a black line for crime, and a bright line for the progress of knowledge, and I found upon that map that wherever the bright line of the progress of knowledge was to be found, the black line of the progress of crime was to be found,—knowledge without the fear of God.

Do you object to the inspection by a Government officer, even though it was not to be made the ground of the amount to be given to the teacher?—The fact is, I would court the inspection any day they pleased to send their agents—only without giving them any control of the school.

Mr. Mitchell.—When you are referring to the superintendence of the Presbyteries of the Church of Scotland as affording the sole guarantee for the religious tuition of the young, in consequence of the evangelical character of the standards they hold, are you adverting to the fact that the Presbyteries of other Presbyterian Churches in Scotland hold by the same standards?—I am quite aware of that; but the very circumstance of these Churches holding the same standards as our own ought to give them entire confidence in our superintendence, in so far as the use of the standards is concerned. I could well understand that a Popish population or a Socinian population might have no confidence in us.

But could the Church of Scotland not also have confidence that the other Presbyterian Churches in Scotland would look after religious tuition?—I would not question either their ability or their fidelity; but the Presbyteries of the Church of Scotland are the legally constituted bodies.

Mr. Black.—You stated some objections to the Committee of Privy Council: do you object to the Privy Council grants because they are supporting error as well as truth?—In our parochial schools, we allow every person to come, only they must comply with the arrangements we make for the giving of religious instruction.

You know that the grants are given to Episcopalians, Presbyterians, Methodists, Unitarians, Papists, and all; these grants are given to all denominations: is that one of your objections to the grants?—The support of error is not that to which, as an individual, I ever could give a sanction. Those that do it must bear the responsibility of it.

But if we were to have Government money, and it were to be given to the parishes, Government would insist upon all classes receiving the benefit of it. They would not give any grant that was to be confined either to the Church of Scotland, or to any other denomination; and therefore, if grants were received at all, is it possible to have them without their being distributed among the various denominations?—I own to you that my mind is burdened with a sense of the responsibility which our country has come under, particularly since the passing of what is called the Roman Catholic Emancipation Bill, by carrying out the principle and the feeling which that bill indicated; but it is a responsibility that every one who has protested against it has freed himself from.

Mr. Muir.—With reference to those children that you mentioned that did not avail themselves of the means of education in the parish, are they children whose parents are able to pay, generally speaking, if they are willing?—The truth is, with regard to those unable to pay, they have no cause to complain, because we supply their wants; but with regard to others, there are two or three causes why they do not avail themselves of the means of education: there is carelessness on the part of the parents; there is also the facility of turning their little ones to

account for domestic uses; and there is that sort of sleepy indolence which many of them have with regard to the great subject of education. Rev. Dr. Muir.

But is that carelessness on the part of the parents frequently accompanied with a perfect ability on the part of the parents to pay, if the carelessness were not there?—I think so. There is no lack of their being able to supply the small sum that is required; and wherever there is inability, through means of the domestic missionaries I have, and my own agency, the matter is remedied at once, by putting their names on the gratuitous list. I don't think that in that district there is a single child that could not be taught one way or another.

The Lord Advocate.—Have you taken any charge of the Normal School?—Not since I resigned my convenership. During the time I was convener of the General Assembly's Committee, as I mentioned before, the Normal Institution was set a-going; and I had a main hand in carrying forward the good work; but, since the time of my feeling it necessary to resign the post of convener of the Education Committee, I have not had any intercourse with the managers of it.

Do you think that you could keep up the Normal School upon its own system, without the Government aid, or would you prefer getting aid?—I should like to have Government aid, if it could be got unconditionally.

What is your opinion as to the ability of the Church to maintain it?—Well, I should hope it might to be able to maintain it.

It did so before?—It did so before. It got assistance from the Treasury for building; but that was assistance given unconditionally. Normal Schools certainly, when properly conducted, are of very great service; but I deprecate exceedingly the distressing circumstances that the high standard of education for our teachers has cut us off from getting a supply for the Highlands.

Well, it has been suggested that for the future the demand might be allowed to regulate the supply, and that the Normal Schools might be left to their own resources: what would you think of that proposal,—to leave the Normal Schools to the Churches that choose to maintain them at their own cost, and in that way they might train the schoolmaster in the way they thought most beneficial?—Of course; but they could not be maintained in the way they are carrying on, in the event of the advantages which they enjoy being withdrawn from them.

But are you aware that they are very much modified by the Revised Code?—Yes. It does strike me also that, under the system of rearing such an immense number of pupil-teachers, the schoolmaster at the head school has a strong inducement to multiply the number of these pupil-teachers, because his own emolument is connected with them; and then there is produced a host of teachers, and, poor fellows, a great many of them are scattered over the country, and they are rendered useless by their training for almost any other position in society.

You think, in short, there is too much unnatural forcing of schoolmasters?—Yes. I hope it will not be supposed that I have any sort of hesitancy as to the great advantage of having a well-educated, well-trained set of teachers; far from it. But still there are localities where such teachers are totally useless; and the old Scotch dominie was a very good man, with few attainments himself, but thoroughly sound in principle, and indefatigable in exertion, in bringing up a spiritually healthy population.

MR. WILLIAM KENNEDY, Free Church Teacher, Edinburgh; and MR. JAMES PURVES, Free Church Teacher, Musselburgh, on behalf of the General Association of Free Church Teachers.

The Lord Advocate (*to both witnesses.*)—I understand you wish to be examined together?—Mr. Kennedy.—Yes. W. Kennedy and J. Purves.

What are you, Mr. Kennedy?—William Kennedy.—I am one of the teachers in the Normal Department of the Free Church Training College, Moray House.

Have you had furnished to you the heads of examination which have been prepared by the Commissioners?—I have.

And are you prepared to submit your views upon those heads in detail?—Mr. Purves and I have gone over all the heads, and we are prepared to do so.

Be kind enough, in your own way, to state your views upon these questions, in the order in which they are stated. First, as to "the operation of the exist-

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ing parochial schools and Privy Council system of grants in aid, in providing education in Scotland for that portion of the community for whom the parish schools were originally set on foot;" take the two together.—The first thing to which our attention was called, in the first head, was the expression, "for that portion of the community for whom the parish schools were originally set on foot." We are of opinion that the Revised Code is not fitted for the same portion of the community as the parish schools were intended for.

For what reason?—We find that in all the Acts of Parliament relating to the parish schools, there is no limit as to the class of children that are to receive benefit from them; they were established for all classes in the community; while under the Minutes of Privy Council and the Revised Code, the benefits of the grants are limited to the children of the labouring poor.

But practically they are not so limited in Scotland hitherto: the grants have not been distributed in Scotland with a strict regard to that principle?—Not under the Code of 1860. There was no such limitation in that Code; and the Revised Code has not been applied to Scotland.

But were not the original grants intended, in England, for the children of the labouring poor?—I understand so; and that class form the majority in the aided schools. The objection was sometimes brought that children belonging to a higher class were present; but that did not incapacitate the school from getting a grant.

Is it your opinion that, under the Revised Code, the parochial schools could not receive anything?—I think in several cases they would; but in all of them the children would be divided into two classes: those belonging to the labouring poor, and those belonging to the class above them; for the latter no grant would be got.

And you think that not suitable for the state of education in Scotland?—Decidedly not.

Would you explain the ground on which you form that opinion?—One great objection to it is that we do not find it, or anything corresponding to it, in the legislation in connexion with parish schools; and we think it of advantage that children, of classes not exactly the same, should meet together in the same school.

Which has always been the case in Scotland?—Yes. The Scotch people have always been opposed to class schools.

Now, in addition to that, we ask you whether the combined operation of the two systems is sufficient to meet the requirements of the country in different localities?—Well, so far as we can ascertain, it does not. The parish schools, with a few exceptions, exist only in the rural districts; and I find, from a return dated February 1862, that in these districts, the parish schools, and the Free Church schools, and indeed all classes except adventure schools, succeeded in educating only barely one-ninth of the population—one in every 9½ of the population—leaving in these districts where nearly all the parish schools exist, and where the majority of Free Church schools are placed, 90,000 children unaccounted for, being either not at school at all, or in schools where neither Church nor State have any means of ascertaining correctly whether the education given is satisfactory, either in amount or quality.

You have assumed that the statistics in that return are correct?—Yes. I do not think there is much difference between them and the census returns, so far as we can compare them. I compared them, and I found them substantially the same.

Which were the earlier in date?—They were very close upon each other. The return was made on 23d April 1861, and I think the census was taken just about the same time. The return is dated February 1862; but that was the date on which it was presented to Parliament, and that the statistics were got in April 1861.

You are inclined to assume that, taking it overhead, that is an approximation, at least, to an accurate view?—I think so; it is a fair approximation.

Have you found that the schools receiving Government grants have a tendency to crowd together?—Well, I rather think so. I took a map of Edinburgh, and marked on it the aided schools, and I found that the great majority of them lay along the central ridge of Edinburgh, say from the West Port to Holyrood. I think there are about sixty aided schools in Edinburgh altogether, and there are about thirty along that ridge,—along the line of the High Street, and the parts sloping from it on either side.

That is where there is the most crowded population?—Quite so; but I don't think it is the best place for schools, on the ground of sanitary considerations.

Is there much rivalry?—There is bracing competition, but I do not think there is much ecclesiastical rivalry.

One of the questions asked is, "Whether the Privy Council grants in aid tend to the establishment of schools in localities where they are not required by the educational wants of the district:" what do you think about that?—I would say that it does tend to do so, although my own experience does not bear me out in being able to say that schools have been established that are not required; but Mr. Purves may know of some instances where a school exists which is perhaps not required.

Mr. Purves, *examined by the Lord Advocate.*—What do you say, Mr. Purves?—I have looked over this question, and in the locality with which I am connected I think I can point to one instance where there is a school which does not seem to be required by the wants of the population. In Ormiston there is a small population of seven hundred; and there are two schools there near each other, and I do not think there is scope for more than one good school. The two schools there are the parish school and the Free Church school, which has a grant in aid.

And a population of how much?—About 700 in the parish.

In the 600 of a population, how many children are there who attend a school?—I suppose that in those two schools there are not above ninety children.

Well, do you find in your experience that the children go to school without much reference to the denomination of the teacher?—They go to whichever school they are best taught, without any reference whatever almost, so far as my experience goes, to the denomination to which the school belongs.

Mr. Kennedy, *examined by the Lord Advocate.*—Is that your opinion also, Mr. Kennedy?—Very strongly. We have got circulars from several Free Church teachers, who point out that in several Free Church schools the children of United Presbyterians form the majority. One teacher puts it that he has more children belonging to the Establishment than the Free Church, and more of the United Presbyterians than of either the Free Church or the Established Church.

Can you tell us these instances?—The instance to which I have just referred is the Dunfermline school; and in my own experience in a large Free Church school in Arbroath, of 300 children, I have frequently more than a third of United Presbyterians.

Mr. Purves.—One teacher writes me as to the religious difficulty: "There is none in practice in our school; we have more of the Established in our school than Free, and more of the United Presbyterians than of the Established. At the same time, Baptists, Independents, Catholics, etc., have no objection to reading the Bible. The Catholics only object to the Shorter Catechism, which is not taught them." I think that is very much my own experience, after a long series of years' teaching.

Mr. Black.—But the United Presbyterians have no schools of their own, therefore they must send them to somebody else?—They have few or no schools.

The Lord Advocate.—But, practically, you don't think that the denominational element enters into the question as to the children attending school?—So far as my own experience goes, it does not enter at all, or very slightly. It was different at the Disruption. For instance, at Ormiston the parish schoolmaster was ejected, and that was the reason that the other school was established; the parish schoolmaster was outed in consequence of his attachment to the Free Church.

Mr. Dunlop.—Was that schoolmaster established in the new school?—Yes.

And his pupils would naturally go with him?—Of course.

The Lord Advocate.—Have you anything further to suggest upon the operation of the existing system? In the first place, perhaps you will give us your views of the difference between the Old and New Code—how far you think the New Code is likely to operate well, and how far the reverse?—Mr. Kennedy.—The great difference between the two, I think, is in the adoption of the principle known as the payment for results, as to the method of supplying the grants under the New Code, and the simplification of the means by which managers may get grants. They are not required to the same extent now to furnish certain funds from their own resources. By the latter alteration we may be pecuniary sufferers; but our objections to the former are particularly strong as there is a general feeling that what is called the principle of payment for results, cannot very well be carried out with fairness as it is at present laid down.

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But do you think the principle in itself is a reasonable principle?—Well, under certain guarantees I think it is; if you guarantee, for example, that all the results can be ascertained and paid for; and if you guarantee, besides, that you judge of the result by the amount of labour expended in producing it; and that, above all, the party producing the results is the party who receives the remuneration. In the other professions it is the time and educated labour that are paid for, not, in most cases, the results.

Does it accord with your knowledge that, under the present system, there is a very lavish expenditure without result in many instances?—I think so; there was far too much expended on what was called the system of pupil-teachers.

You do not think that system has produced equivalent results?—Well, I do not think I would take such a very strong view of it as to say that it had failed. The system was good, but I think it was just carried rather far. It would have been much better if, instead of paying pupil-teachers, trained assistants had been more largely mingled in the staff. My own case is an illustration of that. When about twenty-four years of age, in addition to having a school of 300 children, I had to attend to the training of eight pupil-teachers, from thirteen to sixteen years of age; and I really felt that assistants, young men who had been trained, would have been much more beneficial to the school and me than these eight boys, although perhaps as good of their kind as could be got; so that in that respect I think money might have been saved.

How would it be under the Revised Code?—Practically, the pupil-teacher system will be all but annihilated under the Revised Code.

Have you much objection to that?—No. I am not perhaps altogether expressing in this the views of the Association,—I am here to represent the Free Church Teachers' Association,—but I do not think there is much objection to that. I think it is much better that the education of the country should be in the hands of those who are experienced and trained.

In regard to the religious question, what, in your opinion, is the best security for religious instruction being given in the schools?—Well, I think that, as schoolmasters, we would be inclined to see matters arranged for the schools under a new system, as they are for the present parochial schools in that respect; that is, that, according to use and wont, the Bible and the Shorter Catechism should be taught.

Do you think that any ecclesiastical superintendence is necessary to secure that?—Not if you make it the rule. I am not competent to say whether it would be necessary to have an enactment for that, or whether the fact that that is the custom is sufficient.

I want to know whether you think the influence of public opinion upon the master would be sufficient, or whether you would wish some further guarantee?—I should not be inclined to leave it to the master's option; I do not think that would be sufficient.

Are you of opinion, Mr. Purves, that the public opinion of the district or of the parents would be a sufficient guarantee for the religious instruction given in the school, without statutory enactment or the superintendence of any ecclesiastical body?—Mr. Purves.—I think not; I think something more than the influence of public opinion would be necessary,—something in the Act of Parliament, or something that would make it necessary that the Bible should be read at least in some way or other in the school.

You think it would be necessary to have some statutory provision?—I think so.

Well, now, the second branch of inquiry raises generally the question, "Whether any other plan of a more uniform and national character, based upon an extension of the existing parochial school system, and better fitted to overtake the educational wants of the country, could be substituted for the Privy Council grants:" what is your opinion upon that?—Mr. Kennedy.—Under the first head, we were considering how far the Privy Council system overtook the wants of the larger towns; and we think that it has about reached the limit it can possibly reach under the present arrangements, and it has still failed to overtake the wants of some of the larger towns. We found, for example, that in 1857, with a population in Glasgow of the school age of 67,000, one of the newspapers in Glasgow took up the subject, and appointed a reporter to make inquiry into the educational statistics of the city, who found in the schools 28,000 out of a school population of 67,000. The census returns gave a school attendance of 45,000, leaving a large deficiency; and to make up for that deficiency, I find that since

1857 only about twelve schools have been started in connexion with the system of the Committee of Council. W.Kennedy and J. Purves.

In regard to these statistics, do you think it would be possible for this Commission to obtain accurate statistics on that subject, if we took specimen districts in Glasgow?—I am not acquainted with Glasgow; but, judging from Edinburgh, I think that, taking specimen districts, you could get statistics that you might argue from safely.

Not only as to the number of children attending school, but as to the state of education among the children?—I am not sure as to the latter; I know that was the plan adopted in the case of the Royal Commission in England,—specimen districts; but I do not think you could, from the state of one district, ascertain the state of another.

But as to the district examined?—Yes; you could get a knowledge of the state of education in the children in the district examined.

In your experience, have the Privy Council conditions, under the Code of 1860, been evaded in any cases?—I cannot say personally that I have known of the conditions being evaded; but there is a general impression among schoolmasters that in more cases than one they have.

What do you think, Mr. Purves?—Mr. Purves.—Well, I cannot put my finger upon instances, but I have often heard that there were ways of managing matters to get the grants, and one way has been taken advantage of; that is to say, that the teacher, who had previously had the fees of the school, was ordered by the managers to give up part of them to enable the managers to meet the conditions of the Committee of Council.

Exactly; so that the master gave up the fees, and got them all back as salary?—Mr. Kennedy.—Yes; as voluntary contribution.

You cannot put your finger on a case?—Mr. Purves.—No; but I believe that has been carried out to a considerable extent.

Mr. Kennedy.—And I do not think it would be much better under the Revised Code; I mean to say that, under the Revised Code, there is abundant room for falsification. The Revised Code puts the temptation very strongly in the way of teachers and managers. One example is, that the managers must certify that they are personally acquainted with the circumstances of the parents of all the children attending, and state that what they certify is from personal knowledge. Now, I should think that in many cases that would be practically impossible.

Mr. Dunlop.—Is it not the duty of the managers merely to test the truth of the schoolmaster's return, by satisfying themselves in one or two instances?—Well, I daresay some managers may so interpret it, but the statement by the Committee of Council is more stringent,—that they are making the averment from personal knowledge. Now, I have tried to find out how, in our Normal School, with 600 or 700 children in attendance, our managers were to find out the circumstances of the parents. It would be perfectly impossible. In connexion with that, we were told that in England, a teacher—I don't know his name—remarked, that had he not dodged he would have got no grant at all. So that that of itself is a very strong objection to the Revised Code, even if it were perfect in other respects.

What was the dodge of that teacher?—I don't know, but I can understand what is meant. You have to certify that the children attend so many days—so many school attendances—200. Now, you will no doubt get as large a number of conscientious men among schoolmasters as among other professions; but there is a very strong danger, if the school attendance comes to 198, that the number will be increased; and, at all events, I would object to a system which puts so strong a temptation in the way of any class of men.

The Lord Advocate.—Have you anything further to suggest?—Nothing, except that several of the middle-sized burghs afford a very good illustration as to the extent to which the Privy Council can go, and as to the deficiency of the present system in overtaking the whole wants of the population. I might very fairly point to Arbroath as a specimen of the middle-sized burghs. Twenty years ago there was only one public school there, the burgh school or academy, in which a parochial and a burgh school were combined. At the Disruption the Free Church started four schools there, three of them for the ordinary branches, and one for the higher branches, which she should have been able to carry on by giving a salary to a teacher for each; but she never could have done what the Privy Council enabled her to do, namely, supply assistants. The Privy Council

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supplemented the teachers' salary and gave pupil-teachers. But the Free Church did all she thought possible or necessary there, and still a part of the town was left, and I believe is still left, without a proper school. I think if you were to draw a line dividing the town, with a population of 17,000, into two nearly equal parts, you would have, for about 8000 of the inhabitants, only one inspected school. The same remark, I have been told, applies to Kirkcaldy.

Now, taking the country altogether, is it your opinion that the present educational appliances are largely insufficient to overtake the educational necessities of the country?—Yes; that is our opinion.

And is it your opinion that an improved educational system might overtake them?—I think so.

Well, that leads naturally to the second head of inquiry, which I read: "Have you anything to suggest in reference to a plan of a more uniform and national character?"—Well, under that head, I think we have seen, generally speaking, not much to object to in the proposals made to Parliament formerly. We think that the general outlines of the plans in the bills that were brought before Parliament were quite satisfactory. We think that if steps were taken to start schools where they are wanted—if a board were to investigate and ascertain where deficiencies really exist, and start schools to meet these deficiencies,—the plans which have been hitherto advocated are generally satisfactory.

And they would be so to the body you represent?—Generally so.

What is that body?—It is entitled the Free Church Teachers' Association. It consists of Free Church teachers; not only those in connexion with the Education Scheme, but all Free Churchmen over the country engaged in teaching who choose to join us.

And you think that, generally, the Free Church teachers hold the opinion you have just stated?—I think so; of course there may be points of detail in the education bills to which they objected more or less.

In fact, you prefer a national system to the denominational system?—Very much so; I have always held that opinion.

We have had some opinions given to the Commission by clergymen of the Free Church in favour of the denominational system, and against a national system: you think that opinion is not shared in generally by the schoolmasters?—I do not think it. I think the majority of the schoolmasters would prefer a national to the denominational system. Indeed I never heard, in my own experience, any of them advocating the present system as one better than they think a national system might be made.

Then, as to the local management, you have already said that you think the propositions that have been made to Parliament were, on the whole, very satisfactory?—Yes; but I may mention one exception. We have some very strong letters from schoolmasters, in the three northern counties especially, urging us to call the attention of the Commission to what would be the effect upon schools in these counties if the clause in the Education Bill of 1862, known as the Rural Schools Clause, had been adopted. They think that the circumstances of these counties are peculiar.

I am very anxious to have some hints on that subject, and will be glad of any information you can give?—The only information which I am prepared to give is this. In the first place, the parishes are very large. The teacher of Wick tells us that there are some schools to which scholars come from a distance of five or six miles, and that some come four or five miles to his own school. That is one peculiarity; and another is, that the Free Church, as a whole, is the educating body there, and that, were the proposal made in 1862 to be carried out, it would transfer the management of the schools to parties in whom the Free Church, as a general rule, have not very much confidence.

What do they suggest as a substitute for the proposal to which they object?—One suggestion which they made was, that where a school was required it should be handed over to a body partly elected by the ratepayers, partly elected by the heritors, who would have to pay for the expense of the new school, and partly elected by the body handing it over. They think that some provision of that kind might be made in the way of a compromise.

The result of the bill of 1862 would have been that if the managers of the Free Church school were not satisfied to hand it over, it would have remained in their hands without a Government grant?—Quite so; but in many instances they could not have carried on the school without assistance. If the Government grant

and the Free Church Education Scheme had gone down, which was to be expected, they would have had to shut the school.

Do you know of your own knowledge to what extent the Free Church is the educating body in these counties?—I cannot personally say, but I have seen very strong statements on the subject.

Have you any information on that point, Mr. Purves?—Mr. PURVES.—No; but just that the great proportion of the children attend the Free Church schools in these districts. The objection that the teachers had in regard to the rural clause, to which Mr. Kennedy had adverted, was, that if the school was taken over the teacher was not taken over with it. They thought that a man might have been toiling there for twenty years, and doing his duty well, and that he might be left to be elected or ejected as the new body thought proper, which they considered unfair.

If that had been compromised, would the clause have been satisfactory?—Well, I believe it would.

As to religious instruction, you think that it would not be sufficient or satisfactory to leave that to public opinion?—Mr. KENNEDY.—I am inclined to think not.

Well, do you prefer that the guarantee should be Parliamentary enactment or ecclesiastical superintendence,—which do you suggest?—I think I am representing the views of our Association when I say that we were quite satisfied with the proposal made in some of the education bills, that an hour should be set apart for religious instruction, and that wherever parents objected to their children being present at that hour they could be absent.

But that was without specifying what the religious instruction was to be?—The religious instruction, I presume, would have been understood to have been the Bible and Shorter Catechism, according to use and wont in Scotland.

How would you enforce that,—in whose hands would you vest the power of dealing with the schoolmasters?—I am not prepared to say exactly; because it would depend very much upon the nature of the school committee or the school managers. I think that, taking into account the altered circumstances of the two schools, something analogous to what is in the Parochial Schools Act of 1862 might be enacted, in which a declaration is necessary on the part of the schoolmaster.

Would you object to an enactment that the Bible and the Shorter Catechism should be taught?—I do not think those whom we represent would object at all to such an enactment.

They would not think it essential, but they would not object to it?—As schoolmasters, that is one of the points we are not called upon specially to deal with; but I think our feeling is, as members of the community and of the Church, that we would prefer to see that.

Have you any views upon middle schools between the preparatory schools and the University?—I think, if you were to open up the parish schools you could then have scope for a gradation of schools, which, I think, would be advantageous in point of economy.

What would you call opening up the parish schools?—I mean, if you liberalize the electoral body, and allow such a change to be made in the parish schools as that it might be made an upper-class school, with the others graduated; or that you might have an upper school for the higher branches, and the parish school a primary one to it.

Do you think there is a want of middle education?—I do think so.

How far do you think the Revised Code is sound in giving the grants solely for the elementary branches?—I think we would not object to that if the public expected that the ordinary school should attend to nothing but these elementary branches. We decidedly object to the principle of paying for results as stated in the Code; but we never objected to having our schools tested.

And making that test as the ground of the grant?—I am not so sure if the test under the Code would secure the education that would meet the wishes of the people. We thought our schools well tested under the Code of 1860. And we object to the grant depending so much on circumstances over which managers and teachers can have no control.

Would it not have a tendency to make the schoolmaster confine himself mainly to the elementary branches?—Under the Revised Code he has no time to do anything else. It will be the severest possible drudgery to be able to get up the

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children to these grades. There is a strong objection to the earlier standards. I know I would not allow any child of mine to be ground up to pass in the earlier standards, because I think the demand is unreasonably high. One result of that is already coming out. Teachers are drilling their children in writing on slates, and so on; and more than one is stating that it is interfering with the quality of the penmanship as they come on, and that, so far from being beneficial, it is quite the reverse.

Do you concur in that, Mr. Purves?—Mr. PURVES.—Quite so; I have felt it already.

Are you under the Revised Code?—I am; so far as the examination goes.

You don't think it is doing well?—So far as I am concerned, I don't think it can work with us at all.

Do you think it would have an injurious effect on the old Scottish system of teaching the classics?—I do; it must destroy it completely.

And the higher branches generally?—The higher branches generally.

In point of fact, do the parish schools turn out any proportion of scholars educated in the higher branches?—Yes; I was a parish schoolmaster myself; and I have been under all the Codes, as a subscription school teacher, a parish schoolmaster, and a Free Church teacher, and in all the three I have prepared young men for the University,—a good many in my time.

I suppose you think that is a good system?—Yes, I do; I don't see how you can get on in the country without it; for where could people send their children? They could not send their children to a town, and board them; and if they cannot be educated in the rural district where they live, the country must lose the talent of that class of people altogether.

Do you think it would be a good plan to make one parish school a middle school in each county?—Well, I think that would not be enough. If there were one in each large town in the county, I think a higher school of that kind would be very beneficial.

What do you think the effect of the Revised Code will be if it goes on?—I think the general effect of it would be, if it were carried on at all, that it would make the elementary branches to be well taught. I think that any system of education carefully attended to, however bad the system, will produce good scholars; but I think the general effect of the Revised Code on the schools would be to lower the standard of education; the most important part—the training of the mind, and the imparting of information—must be almost entirely neglected. I see by my own experience, and that is confirmed by what I have heard in my communications with many other teachers of experience, that teachers under the Revised Code cannot really have time to devote their attention to making really good English scholars, and go through the amount of drudgery necessary under the Code, in the elementary part of education. And in regard to the writing, I have been trying that for nearly a twelvemonth, and I used to have pretty average writing, but the new system is really having a very bad effect on the penmanship of my scholars.

Do you think that generally there is a desire on the part of parents for education?—Yes; but at the same time I think that when the regulations in the Revised Code about classifying children become known, they will have an injurious effect upon the feelings of the parents.

Does that arise from the ambition of parents that their children should get to the higher branches?—Decidedly.

What do you find in regard to the actual instruction of adults, or have you any means of judging as to how far the population are educated?—I believe that there has been a very great improvement since I began the profession, seven-and-thirty years ago, and I think that improvement has been very much brought about by the grants in aid. I think they have made a great improvement on the education of the country. I am quite aware of the defects connected with the system; but at the same time it is quite right to state that that is my experience.

Mr. Dunlop.—Mr. KENNEDY.—You said you would not like to trust the religious education of the school solely to public opinion: would you be satisfied if you had a managing board fairly representing the population of the parish, the parents of the children, with a clerical element in it, and partially the present heritors? Would such a board, having power to enforce it, give you sufficient security for the religious instruction?—I think so, if you had the presence of some members whose special duty it was to look after the religious element. I think

that would be satisfactory enough, although the impression among us is, that considering the present ecclesiastical condition of Scotland, in the local committees there should be no *ex officio* clerical members at all; but if that cannot be, the next best thing would be to have all the Presbyterian ministers members of the local committee. I know of one case where a public school, I think in connexion with a Town Council, was neglected by the Presbytery for some years. They took it into their heads, after a lapse of some years, that they would go and examine it, and they found that religious instruction had not been communicated since their last visit. W. Kennedy and J. Purves.

Supposing you had ecclesiastical superintendence, properly so called, how could you accomplish that, except by giving it to one ecclesiastical body?—I do not think it would be difficult, if there must be an ecclesiastical superintendence, to have the representatives, at all events, of the three Presbyterian bodies.

When I said ecclesiastical superintendence, I meant by some authorized court of the Church. Then you would be quite satisfied with clerical superintendence, that is to say, so many clergymen of different denominations?—I should think, if there is no other way for securing religious instruction, that would do it; but I know the views of schoolmasters on the point, and they would prefer that there should be no *ex officio* clerical elements in the boards; that is the general view, and if that cannot be carried out, we think the next best thing would be to get the three leading Presbyterian denominations represented.

You would not exclude ministers from the board by enactment?—By no means; we merely mean that they should not be *ex officio* members. We believe that in nine cases out of ten the minister would be a member of the committee, and deservedly so.

Suppose some system was adopted which should embrace most of the schools with which your Association is connected, what would be the tenure of office they would consider essential?—We are unanimous on that point, that there is ample security for getting rid of a bad man, and a culpably inefficient teacher, in the Parochial Schools Act, as amended in 1861.

Then you would like it exactly on that footing?—Yes, that would satisfy us thoroughly.

Have you considered the footing on which burgh schoolmasters are placed?—My attention has been called to that. I understand that there is no legislative enactment with reference to their appointment, but I have been told that the Judges of the Court of Session have settled that, as public functionaries, they hold appointments similar to the parochial schoolmasters.

Well, I believe the magistrates are not obliged to try a man and get the judgment of the Sheriff, as in the case of the parochial schoolmasters; but that they themselves are entitled to dismiss a burgh schoolmaster for reason assigned, and then the question of whether they have assigned sufficient reason is subject to control: but would a power on the part of the managers to dismiss for cause assigned be a sufficient protection, or would you require it to be brought before some tribunal who should dismiss the teacher?—We should much prefer the latter. In the cases of Town-Councils, schoolmasters have more security than they would have with local committees. I should think that in a school under the Town-Council, especially in a large city like this, there would not be much danger to a schoolmaster who did his duty; but I think it is different in a country place, where a schoolmaster has to come into contact with the parents and the parental instinct, which, like many other instincts, sometimes does not coincide with reason. I think, therefore, there should be some protection to the schoolmaster, some power beyond the local committee, to whom he could appeal as a protection for him in cases of fault being found with his discipline—I don't mean corporeal chastisement—but everything he does to stimulate a dull boy, or check a forward one. There should be some power beyond the local body to judge whether he has done anything requiring him to be deprived of office.

Do you think the present system affords sufficient means of getting rid of inefficient schoolmasters?—I think so; there are two means of getting rid of inefficient schoolmasters by the Act to which I have referred. If they are inefficient by means of old age or infirmity, there is, and ought to be, only one way of getting rid of them, and that is by giving them a retiring pension. If the teacher is inefficient by means of negligence, then the heritors must get the consent of the Presbytery to proceed against him, and then they call in the inspector of schools; and if these parties find that the schoolmaster has been negligent and inefficient,

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then he may be dismissed. Then there is quite another method of acting where he is guilty of immoral conduct or maltreatment of his scholars.

Suppose there should be no *ex officio* ecclesiastical superintendence, what body would stand in their place?—I do not know that we have considered that. For my own part, I would be inclined to make the school managers and inspectors of schools, with the consent of any fairly selected court in place of the Presbytery, the parties to take charge of the matter. I should not have much difficulty in letting my case be judged by official men, who would try me fairly.

You should not insist upon the additional protection of the Presbytery?—I should think not, if you substitute any fair controlling body that would judge by the facts of the case. I presume that is the general opinion.

Is that your opinion, Mr. Purves?—Mr. PURVES.—Yes; I think that is the general opinion of the Association. I think Mr. Kennedy has scarcely expressed the opinion of the Association strong enough on the point that power should not be in the hands of the local board alone. They have a very strong opinion upon that subject.

Have you formed a notion of what sort of controlling body you should have?—I do not think they have turned their attention to that. I think they would be quite satisfied with any reasonable board that might be appointed.

Would you require a central board or a county board?—Well, I think that a county board would be the most likely to be well acquainted with the local facts of the case.

And you think that would be quite sufficient to secure the objects of the schoolmasters?—Quite sufficient.

Mr. KENNEDY.—I may say, that in the matter of appeal we were quite satisfied with the proposal made, that the University Courts should be the parties appealed to.

The Lord Advocate.—You think that was the general opinion?—Yes; the idea of a county board was never suggested to us; but I know that the University Court was regarded as a very satisfactory body.

Lord Polwarth.—I gather from the whole of your answers that you meditate the possibility of an entire change in the parochial system of Scotland, and the placing of the parish schools under an elective board?—Mr. KENNEDY.—We have pretty strong views on the sectarian character, even yet, of the parish schools, so far as the elective body is concerned; but we should be very sorry if any feeling on the part of those connected with these schools should stand in the way of a national system being established. We should not object, if there is a strong opinion in the mind of the Established Church upon the subject, just to leave the parish schools as they are; but we think there would be great and general advantages in getting them linked on to a general system.

Supposing the whole system changed, and the schools managed by elective boards, do you think the schoolmasters should still continue to be appointed for life?—With the conditions I have stated, I think so.

Would the schools not then be much the same as in England, managed by managing bodies?—Yes; but still it would be necessary to have an appeal to a central board in the case of a proposal to dismiss a schoolmaster.

But supposing the whole system to be changed, and that the schools in Scotland should come to be under managing boards as in England, would there be any strong reason why the schoolmaster in Scotland should be in a different position from the schoolmaster in England? The schoolmaster in England is very much the servant of the managing board, and he is dismissed according to the opinion of the board?—Quite so; that is under a denominational system. I suspect it could scarcely be anything else. He is not a public functionary; he is merely appointed by a private body of managers, and not under an Act of Parliament as in Scotland.

But would there not be some danger of a schoolmaster becoming the same thing in Scotland?—It is to provide against that danger that we wish there should be a central court of appeal.

And you wish some enactment by which schoolmasters should hold their office for life?—Yes, for life, subject to dismissal for inefficiency. We hold that it is very proper that such a body of men should hold their appointments during life or efficiency.

But I want to know why: if you change the system in Scotland as you propose, I do not see any strong constitutional ground why schoolmasters in Scotland should hold their office on a different tenure from schoolmasters in England?—

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But, as I understand, we are anxious to go in advance of England, which has a denominational system, and which I do not think affords to us a model. One of the great secrets of the success of the parochial schools is, that you put down a man there with a salary, inadequate, it might be, but secure. He was permanently there; but that was not carried to an undue extent, as he could be dismissed for neglect of duty.

That was the old system; but you are now wishing it very much altered, and to have the schools managed by a managing body; and I want to know why the schoolmaster then should be appointed for life, and thus be in a different position from any other public officer, when his connexion with all religious establishments is broken, and when he ceases to be under the control of any acknowledged religious body?—I am not certain that he would be in a different position from any other public officer; I rather think that a Parochial Board can appoint its Inspector of Poor, but it cannot dismiss him without the concurrence of the Board of Supervision; and I can see very good reasons for that. And I know that in some cases a Police Commission can likewise appoint its Superintendent of Police, but it has not the power of dismissing him without the consent of the Lord Advocate. And so I am under the impression that there must be a central authority to whom the schoolmaster could appeal. I am merely showing by these illustrations, that it was on good grounds considered necessary that local parties should not have complete control over certain classes of public officers; and so it should be with the schoolmaster. He might have disagreeable things to do, and there must be some central authority to protect him.

Mr. PURVES.—That is one of the most important matters connected with the office of the teacher—that his appointment should be a permanent one; and it should be so on this ground, that the emolument is not large. I myself was a teacher of a subscription school, with a good salary, and, on the very ground that it wanted permanence, I took a small parish school for the sake of getting settled. To make the situation permanent is the best way to get good men. I do not think you will get good men without that.

I think so; and there would be great danger on that point of altering the parochial system?—I think that point should not be altered.

Mr. KENNEDY.—I wish it understood that we are not very anxious to get the parochial system altered, if those interested in the system do not consent to an alteration. Still the schools outside may be put on a better footing.

The Lord Advocate.—You are anxious about the extension of education generally?—Exactly. One point we think of importance under the present head, and that is, that even although the present system were overtaking the wants of the country, it is very doubtful whether it will stand long—whether the ecclesiastical bodies will even keep up the educational machinery long. I have certainly very great doubts of their ability or willingness to extend it much, especially under the Revised Code; so that, even if it did overtake the educational wants of the country at present, we would urge the importance of putting education on a more permanent basis.

Lord Polwarth.—But the Revised Code is merely an experiment?—It is not applied to Scotland yet, and we think it not at all applicable to Scotland.

But modified, it might be applicable to Scotland?—Well, we have never considered that view of the case, because we think it so bad that it would be difficult to modify it and leave its essential features in it at all.

Mr. Mitchell.—Is the Bible at present read in the ordinary hours of school?—I think so, in all my experience.

How would that be if there were an hour set apart for religious instruction?—Just as it is at present. We set apart an hour for religious instruction at present, and the Bible is read and examined upon, and the Shorter Catechism is read and explained.

You propose that should be continued?—I see no difficulty in doing so. In all my experience I never found any difficulty; and I have had Roman Catholic children, Mormonites, Baptists, and all classes. Some of them used to come at the Bible hour; some used to absent themselves; but I never found any complaint made.

You are here as representatives of one of the Teachers' Associations: is the present denominational system of education that obtains in Scotland satisfactory to the teachers as a body?—No, it is not satisfactory. So far as the teachers are concerned, however, we find no difficulty in working together. We represent the

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Free Church Teachers' Association, but a large body of us are members of the Educational Institute, of which Mr. Purves was last year the president, and which embraces parochial schoolmasters, and members of all the religious bodies.

If there was a national system such as you have pointed out, do you think that would greatly benefit the teachers as a professional body in the country?—I am inclined to think so.

Would you kindly state your reasons for thinking so?—For one thing, in a national system I think the State would provide something like an adequate remuneration, which is not the case at present, even with many of them. In the Free Church schools that are under inspection the average salary is about £86; and that is a high average, as things go, among the denominations in Britain, and I know—at least, I was told the other day—that there are 117 Free Church teachers who have incomes not above £50 a year. I do not think that, were a proper system introduced, the State would allow that to go on; and hence, in that respect, it would benefit the profession. And I think if they were set apart as a body of public teachers, their position would be very different from what it is at present.

Don't you think it would, by enlarging the platform of the profession, likely increase the desire to join it, and the qualifications of those who did join it?—I think so; and in that way you solve a great deal of the difficulty about Normal Schools. The Privy Council, under the former arrangement, with reference to Normal Schools—because they are now under a different arrangement—proceeded on the principle of giving large bounties to a man to lead him into the profession, and then it was by no means liberal to him when he did get in. I think that if you make the *terminus ad quem* sufficiently attractive, you would draw well-qualified men to the profession; and that would be one great advantage of a national system.

Don't you think it would allow a schoolmaster to get from a lower to an upper school, so as to excite emulation?—I think so. I think another bad tendency of the Privy Council system is, that it has created two classes of schoolmasters, one class for common schools, and another for upper class ones. Now, we think the old parochial system was different, and was better than that.

So that there would be a wholesome competition or stimulus among the teachers themselves for their own efficiency?—I think so.

Mr. Smith.—From what you say just now, I understand you to imply that the State was, to a certain extent, to provide salaries under a national system?—Our calculations have gone very much upon the theory of what was in the Education Bill of 1862,—that the State and the local parties should provide each one-half of the expense.

But who are to fix the salaries—the local party or the State?—Our view of that is this, that the system in the Old Code, as we call it, the Code of 1860, by which the Privy Council settled a gradation of salary from £15 to £30, might be very well adopted. There might be a salary ranging from £25 to £50 from the Government, and then the local parties could have a range also; so that a man might have a lower local range, and a higher one from the Committee of Council.

But you would anticipate that under a national system the Act of Parliament should provide that the schoolmaster's salary should never be under a certain sum, in the same way as at present in the parish schools?—Decidedly; that is one of the great advantages of the old parochial system, that the State came forward and said, This, at least, ought to be the allowance of the schoolmaster.

Exactly; and then, in addition to the minimum sum so fixed by the Act, you also anticipate that the State should provide, in some means or another, an additional sum?—Yes; taking that view of the case, I made a calculation as to what might probably be the expense of educating the whole population in Edinburgh and Leith that are of school age, and I do not think it would be anything very extravagant, in that view of it. From the calculation I made, I arrived at this conclusion, that a local tax of about 3½d. in the pound would meet the local share, while the State itself would be called upon to give a share from the public Exchequer, which would not be greater in proportion than what the State is giving at present under the Privy Council system.

As to that additional sum to be provided by the State, have you any idea as to the mode in which it should be given,—would you propose that it should be payable for results, as in the Privy Council Code, or according to the endowment fixed by the parties?—Well, we really have no objection whatever to any reasonable method of testing the efficiency of the schools, although we have a strong objection to the present method as proposed in the Revised Code. The plan in

use among the parish schools, and the system of salaries in the Code of 1860, form a capital model.

Supposing that such an Act was passed, you would not leave it to the present local managers to fix the salary?—Within a certain range I would.

You would require to have something fixed: you would not leave it entirely to them?—I would prefer the wisdom of our ancestors to guide us there. I find that is the second thing proposed in the earliest Act that was passed, that there should be a minimum and a maximum fixed.

I gathered also that you are of opinion that there should be religious instruction in the schools, and not separated from the secular instruction?—Our view is that there should be an hour set apart for religious instruction, as, in point of fact, there is at present.

That the present system should be continued in any national system?—Quite so. I may be allowed to supplement my evidence by saying that I believe that, especially in the larger burghs, you might have all the greater chance of success if you could combine in the managing body representatives of the religious bodies. I think you would require in some of the burghs some parties who would have an interest in the subject sufficient to get the local parties to tax themselves.

Were you bred a parochial school teacher?—No.

You consider, Mr. Purves, that the parochial system is a good one?—Mr. Purves.—I do. I think it has been very successful as a whole.

You also think that the administration of the Government grants has been very beneficial?—Yes; with a great many bad things about them, I think the grants have done a great deal of good.

Mr. Black.—I think, Mr. Kennedy, you, as well as those whom you represent, consider the system adopted in the parish schools of Scotland was the very best system we could adopt, if it were extended?—Yes, I think so.

Well, according to that system, did not Scotland provide for the education of all its people,—it rested upon the land of Scotland to provide for the education of the people?—It did.

Well, do you think that now Scotland could not, or should not, provide for the education of its people without Privy Council grants?—Well, the system of giving grants from the national Exchequer has become common, not only for the lower classes, but for the higher classes, and both England and Ireland draw for education from the public purse. I would have no objection to the grants coming from a local source, only I think that the State is one of the three parties especially charged with the work of education; and I think it a very good arrangement that the State, as such, should have some share in the management and expense.

A good many years ago young men trained for the ministry, and not appointed to churches, were very often appointed to schools: don't you think many of those, who have a good University education, are well qualified for the teaching of the schools?—Oh, perfectly qualified.

But could they be appointed under the system of Privy Council grants?—No, they could not, unless they underwent an examination; but any party who had been trained at the Universities would be a very poor specimen indeed, if he could not qualify himself for passing the examination. The Universities provide training in one thing, but that is not the thing asked in these schools for the Privy Council grants. The Universities do not provide for training a man how to teach—for developing his power of communicating; they give him no means of training in some branches required in the schools, though he can get Latin, Mathematics, and Greek in the Universities.

You stated that in one instance, where a school had not been visited for a considerable time, the parties who had superintendence of it, found when they did visit it, that religious education had been neglected for a long time?—Yes.

Who were the parties who had the superintendence of the school?—The Town-Council, if I remember aright.

You say you would consider it necessary to have some statutory provision for the religious teaching: what would be the nature of the statutory provision you would think necessary?—Well, we never objected at all to what was proposed in some of the bills—I do not know if it was in the last; but it was simply to the effect that religious instruction should be given at a certain hour by the master, and that those who did not wish to get instruction in religion need not be present.

But you would not have anything in the Statute fixing the books that were to

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be read, and the kind of religious instruction that was to be given?—We were led to understand that the statement in the preamble of the bill, as to religious instruction, would be sufficient to settle that the religious instruction should be given in the Bible and Shorter Catechism, in accordance with the use and wont of Scotland. I should be inclined, if that is not sufficient to settle that, to make it more explicit; at least, that is the opinion of the Association which I represent.

But do you think there is any necessity for making it a statutory provision: do you suppose that the parents or superintendents of the schools would have any school without religious instruction?—Well, there is just this: if you appoint a managing body such as has been suggested, with no parties whose special duty it is to look after that, it might be neglected. I think it would be all the better to have it settled without dispute, because it is in consonance with the feelings of the people; and so long as things continue as they are, it is the opinion of the majority of the people. Those most in need of religious teaching might be the first to exclude it.

Would any statutory provision be a better security than the appointment of a teacher of good character,—would they appoint any man of good character who would not give religious instruction?—A teacher might have a perfectly good character; but it is quite possible that the school committee, if they had the power of regulating the branches, might exclude religion altogether.

Are you aware of any instance of such a thing being done in Scotland?—I am not aware, because a great majority of the schools are either parochial ones, or connected with religious bodies; and it would be the last thing we would expect that any of the religious bodies should shut out religion from the school.

Do you think it likely that parents would send their children to a school where religion was excluded?—I do not think there would be many cases, if any, in which religion would be excluded; but still my own feeling is very strong that the State ought to come in and secure that in the future, as it has done in the past.

Would you have a declaration from the schoolmaster?—We should not object to that.

What kind of a declaration would you have from the schoolmaster?—Well, I don't remember exactly the phraseology of the declaration given in the Parochial Schools Act; but I think some part of that might be applicable to the teacher under the new system: that he should not, for example, teach anything contrary to the doctrines of Scripture.

And do you think that declaration would have very much effect on the general teaching of the master?—No; but there is this in it, that if he is a conscientious man, and signs that conscientiously, it would be a check if ever he was about to change his opinions on any of these points. Besides, it could do no harm, and many have great faith in tests.

Mr. Mure.—I understand, Mr. Kennedy, that on that point of religious teaching, your view is that it would be better if the Act of Parliament would provide something that would prevent dispute upon that point in any managing body that was appointed?—I think so.

And that is the great advantage of the Act of Parliament dealing with that subject?—Quite so; it removes it from the category of points that may be discussed at all.

And your view is, that what is called the use and wont of the parish school system of religious teaching should be adopted: I think that was the expression in one of the Acts of Parliament to which you alluded?—Yes.

Is there not some little difficulty in that in reference to the Episcopalians, and some other denominations?—I have never practically experienced it. Of course, we had United Presbyterians attending our schools, although religious instruction was given there and paid for under the sanction of the State; but I must confess I never heard the United Presbyterians complaining of that. Then, with reference to Episcopalians and Roman Catholics, we think that is just one of the hardships that a minority must suffer in a country like this. There should be no compulsion upon them to attend to receive that religious instruction; but we think that if the State secures that, there is no absolute necessity for its going a step further, and securing that they should get training in their own peculiar views.

Have you ever had occasion to consider the Shorter Catechism as a standard of teaching, with the omission of certain articles that might be more peculiarly

objectionable to Episcopalians and others?—I never thought of that view of it; but I do not think, so far as my knowledge goes, that there is very much difference between the Shorter Catechism and the Articles of the Church of England, so far as the two can be compared. W. Kennedy and J. Purves.

That is a point your Association has not had under consideration?—No; we really, as schoolmasters, were prepared to give evidence as to what we found to be the facts about the so-called religious difficulty in the meantime; but we did not feel ourselves called upon to make suggestions as to how it might be solved.

With regard to the school to which you referred, can you tell us how long the religious instruction had ceased?—I think it was two or three years, but I cannot say; I know it was a considerable time.

And in that case, the practical effect of there being nobody responsible for seeing that religious teaching was given, was, that religious teaching was dropped?—Yes.

Did the parents send their children in the same numbers to the school?—I believe they did.

I think you both mentioned that the teaching was not denominational, in the sense of the scholars being confined to the particular denomination to which the school was attached; but the instances you gave were chiefly instances of Established Church and United Presbyterian Church children attending Free Church schools: have you found it to be the same with reference to the parish schools, that the Free Church children have attended them?—I believe latterly they have. There was a strong feeling twenty years ago upon the subject; and there was one case where it was proposed to visit a parent with ecclesiastical penalties for sending his children to a parish school; but I believe the sensation which that case created was a good proof that it was a rare one.

Sir J. Fergusson.—Mr. Purves, is there anything different in the teaching of the Free Church schools from that in the parochial schools?—Mr. Purves.—There is no difference. I teach just as I did when I was a parish schoolmaster.

There is no special Free Church doctrinal teaching?—None whatever.

Is there any separate Free Church doctrinal catechism?—None whatever.

Under the New Code, have you found that the payments will be larger or smaller than under the Old?—I scarcely expect to get anything under the New Code.

From what cause?—From two causes: one third part of the school will not have the requisite number of attendances, from removals year by year; and then another third of the school are new scholars, who come in during the time, and will not have the number of attendances; and you have thus only a third of the school to work upon.

But, then, these removals would not have much effect if the examination were made at another part of the year?—Removals from the school take place at all times. It is not like the higher schools in town, where all come after the holidays and remain during the year; but you have bigger boys going away at all times, and younger ones coming in. I think that, with that cutting at both ends, there will only be a little left in the middle, from which the managers may get a little money to pay expenses; but all that will be swallowed up, and the teacher get nothing.

Mr. Kennedy.—But it is still worse in town schools when the examination is at certain seasons. Our examination in the Normal School Practising Department, took place at one time in January, and the school year ended in July, when from 130 to 150 children regularly left, and we had their places supplied by new children. Of course, we would have had nothing from the 150 who left, and the new ones had not completed their prescribed number of attendances in January. It is proper to state, that in our case it was proposed to alter the date of the examination. But while we have been put right, others have been put wrong. At least we were told that in Aberdeen the number would have been one-third larger had their examination taken place in June instead of in October. There is no possibility of getting any criterion as between one school and another.

Mr. Davidson.—You think that in the Act of Parliament there should be express provision for the religious teaching?—I think so.

You would make that Act of Parliament refer to the Presbyterian bodies?—Yes, if you adopt the view as to clerical management to which I referred; otherwise, not.

Then you would make no provision at all for the teaching of Episcopalians or Roman Catholics, but leave that entirely to the parents and the bodies to which they belong?—I would be inclined to do so.

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Would you make it part of the duty of the Board, supposing there was a local board, to see that these children were taught in some religion?—No, I would leave that matter alone.

With regard to this body to whom the appeal is to be made from the judgment of the local managers dismissing the schoolmaster, I should like to know your views as to the constitution of that appeal body; mention was made about a county district board; have you any views as to how a county district board should be composed?—No; all we were anxious for was that there should be some body of men, apart from the local managers, to whom an appeal might be made. I believe the parochial schoolmasters think it rather sharp practice that the Sheriff's decision should be final.

That is in reference to morals; this is in a case of inefficiency?—In the Parochial Schools Act, in such a case, it is the heritors, with consent of the Presbytery, who apply to the inspector of schools.

According to your suggestion, the Presbytery and the heritors would be removed, and the discipline and management of the school would be in some local board: now, what would be the body to whom you would like the appeal to be taken?—I think I stated that I had no objection to the proposal made that the University Court of each district should be the body who should have the power of dismissing the schoolmaster. All that we would be anxious to stipulate for would be, that a bad schoolmaster should be got rid of, but by a fair process of trial, and not by a mere local committee, whenever they wish to get rid of him.

Then you would put the power of dismissal in the local board, with consent of the University Court of the district?—Well, practically it might be so; but the local board should not have the power of dismissing, but of complaining. Give the power of complaint to them, and the power of dismissal to the Sheriff or University Court.

But there is a great deal of difference between the Sheriff and the University Court?—I refer to the Sheriff as a party having power under the Act of 1861, and merely wish to have it understood that we wish the power of dismissal not to be with the local board. We have no decided opinion as to what should be the constitution of the dismissing body; we would be abundantly satisfied if the matter is removed altogether from the local parties.

Now, you stated that one objection you had to the present system was, that it is in your mind doubtful whether, supposing the present system to continue, the denominational bodies would be able to keep up the education of the country on the present scale?—Yes, under the Revised Code.

Do you think, if it was known that the result of this Commission, or the result of what might be considered the opinion of the country generally, was, that no new system was to be adopted, that there is, or is not, such energy in these denominations, that they will go on with their schools even with more efficiency than in the present or the past?—I believe that if you finally settle the question that there will be no national system, an effort will be made to work the present system somewhat better than it has been done for the last year or two, simply because the whole thing has been in a state of suspended animation for some time. But I do not think that the system, under the Revised Code, is calculated to be permanent, and especially that it is calculated to extend.

And you think that this effort which would be made, if no change was to be made on the system, would not be successful?—I should think not. It would not be reasonable to expect the religious bodies to educate the whole country, with the miserable State-assistance under the Code.

And if that is the case there will be a deficiency of schools?—I hold that there is a deficiency as it is; but there would be a still greater deficiency under the Revised Code, and the efficiency of the schools would be lowered.

You referred to the evasion of the Revised Code: have you any remedy to suggest for these evasions, supposing the present system continued?—The Revised Code endeavours to take care that all sorts of checks should be provided.

But these checks have not been sufficient?—I understand not; but, of course, the Revised Code has not been in operation here. I am not in the meantime prepared to suggest any remedy. I may mention under that head that I made a calculation as to the amount of labour the making up of the returns from the registers, kept daily, would have given me had I been in the school I was in for some years; and I found it was a pretty good week's work to get up the returns conscientiously in a pretty large school.

I suppose, from what you know of the feeling in the country generally,—parents, and teachers, and altogether,—that you are satisfied that a purely secular system would not be popular in this country?—I do not think it would be popular. W. Kennedy and J. Purves.

It would not be submitted to, you think?—I should think not.

Lord Belhaven.—You stated just now that there was a deficiency of schools. Is that general over the country, or does it apply to any particular district?—I tested the census returns, and I found that there was always a considerable difference between those of school age and those attending schools; that there is that deficiency throughout the country, though in some places more than in others. In Edinburgh and Leith, for example, the number given as at school age is 40,520, and the number actually attending school is 31,000. Then in Arbroath, the number given as of school age is 3912, and the number actually attending school is 2770. In all these cases it would be quite fair to add a small percentage for those necessarily absent during the week the numbers were taken. Then, if you look at it, taking the country as a whole, the total number above five and under fifteen is given as 685,914. Suppose you deduct one-fifth for those, say between thirteen and fourteen. You have ten grades from five to fifteen; take off two to reduce it from five to thirteen, and you find 548,731. Then, the scholars of all ages above fifteen as well as below it, are 487,056, leaving a difference of between 60,000 and 70,000 at least. This is the most favourable view you could take.

You are taking that from the returns; I thought you knew probably some districts of your own knowledge?—I do; I know some districts where there is a deficiency. I got to-day information of a very large suburb in the neighbourhood of Dundee. It has grown rapidly—Lochee—and has a population of between 6000 and 7000; but it has only got four schools, two of them not under inspection, very small schools, so that you have there a decided deficiency.

And do you think that applies principally to the town population?—I am most acquainted with the town populations; I am not prepared to say so much of the country districts.

Well, you have stated that there were many children of Episcopalians attending your schools?—Yes.

Do they object to going to the school during the religious instruction?—I have had some who were in the habit of not coming. The general habit is to take religious instruction the first hour, and some don't come; but I have had some who took part in the Bible instruction, and who were never asked to repeat the Shorter Catechism. They took part in the Bible instruction, and sat apart when the Shorter Catechism was taken, or were absent.

Do any of the Roman Catholic or Episcopalian clergymen visit the schools?—In Arbroath I have had visits of Episcopalian clergymen.

In Edinburgh?—Not that I am aware. In the Normal School we have visits from clergymen of all denominations.

Was any objection made by any of them to the religious teaching in the schools?—I never heard of any. Mr. PURVES.—I may say that one of my pupil-teachers was an Episcopalian, and he is now a teacher of an Episcopalian school in Blackpool. He never had any objection to the religious teaching.

The Lord Advocate.—Did he take the whole religious instruction?—Yes, the Shorter Catechism and everything.

Lord Polwarth.—The Episcopalian pupils remain while the Shorter Catechism is taught?—Mr. KENNEDY.—If they wish to do so; but we don't put questions to them.

But many of them learn it as fast as the others?—Yes; many of them never said a word about it.

The Lord Advocate.—Did you ever find the Roman Catholics learning the Catechism?—I am not aware of them learning the Catechism; but I have known them attending the schools, and attending the Bible-classes. I had one who went to a French convent to finish her education, and she attended the Bible-class.

Mr. PURVES.—You were chairman last year of the Educational Institute of Scotland?—Mr. PURVES.—Yes.

In regard to the desirableness of exchanging the denominational for a general system, you are of opinion, notwithstanding the advantages that may have been derived from a denominational system, that it would be better to have a national system?—Yes; and that is the general opinion of the members of the Educational Institute.

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That opinion is not confined to the Free Church ?—It is not.

Is that opinion very unanimous ?—I think it is unanimous. I have never heard a whisper to the contrary.

Do you know, Mr. Kennedy, how the students that go from your Normal School to the University have acquitted themselves generally ?—Mr. KENNEDY. —Very well. We have occasionally made out a list of how they succeeded in the prize-lists, and they have, as a general rule, stood exceedingly well.

How are the schoolmasters satisfied with the examining board constituted by the late Act, or have you the means of knowing ?—Mr. PURVES.—I have seen a number of the parish schoolmasters, and all I have come in contact with appear to be quite satisfied with it.

Mr. Smith.—Could you give us any information as to the number of teachers in Scotland altogether ?—Mr. KENNEDY.—I have not noted that down. We have the number of teachers in the census returns. The number of schools I find to be 5500. I think the number of teachers is stated in the census returns published recently ; but I have not got a note of it.

Mr. Dunlop.—Do the students of Moray House School pay for their own teaching ?—Very few do ; there is a very sweeping alteration in the relation of the Normal Schools to the Privy Council system, by which more of them do so.

Under the change, do you think a sufficient number of people would come through the Normal Schools to qualify for the profession,—do you think there would be enough to support your institution ?—I scarcely think so ; but I think there would be many more of self-supporting students than we have had ; for unfortunately, the system pursued before 1863, was to make the bounty plan universal, and so only the very bad scholar could not get a scholarship. It will require a long time before we get over that fully.

You will always require some stimulus ?—We will always require some bursaries ; the plan adopted now is for the Committee of Council to give a certain sum, and our own education committee allocates that in bursaries.

As to the mode of the evasions which are practised to get the grants of the Privy Council, I think you said it was to give a certain portion of the fees to the managers, and that appeared as a part of the voluntary contribution by them : how is that effected,—do you not require, in the return you make, to put down the whole fees received ?—I understand so ; but to be effective, in order to make the thing tally, you must subtract the amount handed over to the managers from your return.

Then that must have been falsehood ?—Mr. PURVES.—It does not follow that. The bargain is made at first with the teacher, that he gets a certain proportion of the fees.

But you are obliged to fill up a schedule stating the total amount of fees received from the children. Well, if you state that truly, it will appear at once what the contribution was ?—Mr. KENNEDY.—The one return would contradict the other.

Lord Polwarth.—In preferring a general system to the denominational system, by that you mean that, under the general system, the public funds would be applied solely to Presbyterian schools : that the Privy Council grants should be given to them alone ?—Mr. KENNEDY.—I should understand that the schools should not be Presbyterian, except in so far as that the Bible and Shorter Catechism should be taught ; that they should be open for their secular instruction to all classes of every denomination that wished to attend them.

Then, in point of fact, you would confine the possibility of Privy Council grants being given to any school except national schools ?—Just so.

If any party set up private schools for the benefit of a district, you would prevent their receiving the Privy Council grants ?—Well, we believe that it is the feeling of the schoolmasters, and of the people of Scotland generally, that the denominational system should cease. My own opinion is, that were you to continue the grants to the Episcopalians and the Roman Catholics, if they were given under the Revised Code, they would very soon get tired of them.

But the Privy Council may alter that Revised Code any morning ?—Quite so.

Well, you would wish to confine the Privy Council grants to these Presbyterian national schools ?—I would just do as has been done formerly in the parish schools ; it is a hardship which the minority must suffer.

But the aid given by the State is not confined to the parish schools at present ? —I would make the new schools as thoroughly national as ever the parish ones

were. The former plan was settling the salary by a tax upon the land; and it is no new principle to settle the salary partly by a local rate, and partly by a sum from the central Exchequer.

It would be an entirely new plan with respect to the Government of the country?—It is a plan adopted in the sister kingdoms. There is nothing new in principle; I understand that the State really has control over these grants from the land. They are not private property at present. I understand they are set apart for education at the discretion of the State.

A certain part of every property in Scotland is set apart for education?—I would simply propose to supplement that by a grant from the public Exchequer.

That would be making an entire change on the system in Scotland?—Not on the principle, I think. For example, the State contributes to the support of the Universities. It pays a much larger capitation grant to students in the Universities than it does to the children in the common schools. The grant is £22,000, and that gives a capitation grant of £6 to every student attending the Universities.

Are you Free Church teachers appointed for life?—There are two classes: those who were dismissed from their schools at the Disruption, and those who came in afterwards. With regard to the first class, they were under the impression that they were as secure as formerly; but those of us who came in after the Disruption hold our appointments according to agreement, although the Church made a recommendation that the Presbytery should be a court of appeal from the decision of the Deacons' Courts; but it transpired that the Church considered both classes to be on the same footing. Mr. Purves.—That did not come out for ten or twelve years after the Disruption. Those of us who came out at the Disruption expected that our position would be as permanent in the Free Church as it was before the Disruption, or some of us perhaps would never have been connected with the scheme. I have no hesitation in saying that if I had dreamt that I was to be at the will of any local party, I would never have been a Free Church teacher for a day; but that did not come out till the decision of the Church in the Burrelton case, ten or twelve years after the Disruption.

Mr. Davidson.—Mr. Purves, what is the exact title of the body of which you were president last year?—The Educational Institute of Scotland,—a chartered body.

Of whom is it composed?—Of teachers of all denominations, and of all classes.

What is the number?—There were 1800 at one time; but I do not know the number now.

Is there any denomination that predominates in the number?—I think parish schoolmasters form the largest number in the Institute.

Mr. Smith.—And the opinions you have expressed, are opinions entertained, you may say, by the great majority of the Institute?—We are not representing the Institute here, but another body, the Free Church Teachers' Association.

The Lord Advocate.—But your preference of a national system you state to be the general and prevalent opinion of the Institute?—It is.

Are you aware of any difference of opinion upon that subject in the Institute?—No.

Lord Polwarth.—But you do not appear for that body on the present occasion?—No.

The Lord Advocate.—Is there anything else which you have to suggest?—Mr. Kennedy.—I think we have exhausted everything we had to say in reference to the subjects mentioned in the schedule issued by the Commissioners. But I may say, that in the body which we represent, there is a very strong opinion that the Commission might do something in one direction that would considerably improve the position of the schoolmasters. I refer to the question of fees. We think that, considering the difference in the present time in the value of money, the key-note might be struck a little higher; and we think that a recommendation on the part of the Commission might be very useful there.

Lord Polwarth.—That is usually left to the local managers, whoever they are?—It is a very difficult point for any local body to start. In Aberdeen, I believe, they started it, and succeeded in getting an addition to the fees all over.

Don't you think there might be lower fees for the lower classes?—I do not think the fees could be much lower than they are; perhaps they might be supplemented by some body.

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The Lord Advocate.—What is the average scale of fees?—In Free Church schools the average is about 11s. or 12s. per annum. In one Free Church school which I taught, a very large one, we began with 2d. a week, or 2s. per quarter; then there was a class at 3d. a week, or 3s. per quarter; and the maximum was 3½d. a week, or 3s. 6d. per quarter. These fees were regulated according to the amount of education given in each class. Our junior department paid 2s. per quarter, and got instruction in reading and elementary music, and they, of course, got religious instruction. Then, when they came on to write, they paid an additional 1d. per week, or 3s. per quarter; and the additional halfpenny covered all branches—arithmetic, grammar, history. That is a fair enough specimen of a large town school; but in the parish schools, and especially in the country, the charge was higher for the higher branches.

Was it paid quarterly?—Quarterly in the highest departments; but in the large majority of cases it was paid weekly.

Lord Polwarth.—When there are two or three children belonging to a family, are the fees reduced?—Our plan was, that where there were three of a family, the third paid half fee; and where there are four, the fourth was free. And I remember that we made provision for five of one family, where the youngest got free, and the second youngest paid half fees.

When there is any increase in the education, are the fees generally increased?—Generally.

So that the upper classes pay a somewhat higher fee than quite the poorer, if they wish their children somewhat better educated?—Yes, if they wish extra branches.

Do they pay in advance?—The rule is to pay in advance, but the practice is not quite so common.

Are the payments by the week?—It is a very great drawback to the working of the school, payment by the week; but I suspect it is necessary, especially in towns. I believe that, in general, the fees are very well paid in the country.

REV. DR. CAIRNS, Berwick-on-Tweed,—*examined.*

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The Lord Advocate.—You have had furnished to you a printed copy of the questions which the Commissioners have prepared?—I have.

Would you be kind enough to give the Commission the benefit of your views in detail on the several points?—Yes. In regard to the first point, namely, "The operation of the existing parochial schools and Privy Council system of grants in aid in providing education in Scotland for that portion of the community for whom the parish schools were originally set on foot, and how far the combined operation of the two systems is sufficient to meet the requirements of the country in different localities," my impression is, that both systems, taken together, as they work at present, are defective—that they do not reach the amount of necessity that exists anywhere. I found my conclusions to some extent on the facts brought out in this return, obtained by your Lordship in 1862.

Assuming that the statistics are reasonably accurate?—Yes; they cannot be perfectly accurate, but they give an approximation. I have examined them as carefully as I could.

What are the results of the statistics?—They are somewhat like this, that in manufacturing and mining districts, not by all the systems—by the whole amount of schools that are called into operation by all the systems, inclusive of the burgh school system and the adventure schools—not by the whole of these put together is the destitution met. Consequently, if all the schools, in addition to the parochial schools and those under the Privy Council system fail to meet the destitution, these two systems alone could not meet the necessity of the country. I find in some cases that not one-thirteenth of the population are under instruction according to those returns, in parts of Ayrshire, in mining districts, and in other districts to which I might refer. In Tillicoultry, which is more a manufacturing than a mining district, there is apparently a very great deficiency. Indeed, I think that with regard to that place, there surely must be some error in the printing, the deficiency is so great according to the return.

To what extent is the deficiency there?—I find that the population of the town

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is 5054, and the whole amount of school accommodation provided by all the schools reported on here is only 272. There is only 1 in 18 in that case. I fear there must be some error in the printing in such a case as that.

However, you think that, having studied that return pretty carefully, it indicates, even supposing it to be not strictly accurate, a very considerable deficiency in the education of the country?—Undoubtedly, if the returns are not very far wrong.

You are aware that the Commission have taken means to obtain more authentic details?—I am.

To what extent do you think it possible for any educational system to meet the requirements of the country—I mean, what percentage of the community would you reasonably expect to educate?—I find that in a great many cases in this return, taking the numbers of the population, the proportion under education is one-fifth, one-sixth, and one-seventh, and frequently one-eighth and one-ninth are brought under cultivation.

What should you think the minimum?—I know there is a difference of opinion among educationists on that point; but I should think one-seventh.

You think a system that educated a seventh would be satisfactory?—Yes; there would be no complaint of deficiency. It might be desirable to educate one-sixth, but I should not complain of deficiency where there was a provision for a seventh.

What are the elements in which you think these two systems, or either of them, defective?—They differ by very great marks of distinction. The parochial system is one of great antiquity,—one that has had all the benefit of long antiquity and experience; the Privy Council system is comparatively recent. The parochial system is intended to meet the wants of the whole of the inhabitants of the parish,—it is not professedly for the poor of the labouring classes; the Privy Council system is intended to meet the wants professedly of the poor working population. There are very great differences between them. The parochial system is, professedly at least, undenominational. That may be questioned as to its actual working, but professedly its objects are undenominational; and the Privy Council system is professedly and acknowledgedly a denominational system. These are very great differences between them; and hence they must be looked at from different points of view. I believe that the parochial system has been of very great advantage to Scotland; I do not need to say so to such a Commission as this. I myself received all the education I received before I came to College in a parish school; and I know others who have risen to the ministry of the Gospel and other liberal professions, who have received their whole education in parish schools. I believe that feature of the parish school system still continues; and therefore I do not speak from any prejudice against it. I very greatly admire it in many of its features in its past working; but I am not at all convinced that it is adequate, as it has hitherto been worked, to overtake the educational wants of the country in different localities. It does not provide machinery for doing so, I think. It falls back upon the heritors, who are the body intrusted with that duty, and they must assess themselves for that purpose without any extraneous influence being brought to bear against them. Now, I speak with great regard for the services rendered by the heritors of Scotland to education in Scotland, because for many generations they were the only body in the parish that did render service to it; but when any class of public men are left to carry out a scheme which requires considerable expense, and to do it mainly at their own expense, of course taking into account the school fees, I think it is hardly to be expected that they should be the best guarantee for the rapid extension of such a system in order to meet the wants of the community. For that reason, were there no other, I should think the parish school system defective. And hence I think that, in point of fact, it has been found ill adapted to meet the necessity arising from the occasional increase of the population in a particular locality. The rural districts are entirely changed in their character from what they once were. Manufactures have been introduced, mines have been discovered, and great masses of population have been agglomerated in such districts, while the parish school system, adapted originally to a limited and scattered population, has not been able to overtake those necessities, and there has been no provision in any other schools to supplement these deficiencies till the Government introduced the Privy Council system.

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Then, apart from the Privy Council system, you think the defect of the parochial system is want of expansive power?—That is one great defect I find in it; and I find from these returns that, as a rule, there is only one parish school in each district, and that the other schools have been very laudably erected by the Free Church of Scotland, or other parties, to supplement the deficiencies of the parochial system. I find that the amount of provision made in very many districts by the parochial system, if it were the only provision, would certainly be very far from adequate.

Then, apart from the Privy Council grants, you consider the parochial system defective both actually and theoretically?—Yes; I think that theoretically it is not a perfect system.

Then, as regards the denominational grants, what is your opinion in regard to their efficiency?—Well, I would be slow also to speak disparagingly of the Privy Council system. I know its working practically. Perhaps I have some advantages in that respect, from living in a part of the kingdom where the Privy Council system is brought into full operation,—where the whole denominational features are brought out as perhaps they are not brought out in Scotland, and where the Church of England is the Established Church, as it is in Berwick-on-Tweed. There the Privy Council system is very actively worked by the Church of England. The members of the Nonconformist body there have been obliged to use the Privy Council system, although they might otherwise have avoided its use. I have not felt the same conscientious difficulties in regard to that system that are felt by many members of the United Presbyterian Church; I had no difficulty in helping it to be called into operation in the case of an infant school in the town where I am a minister, and also in the case of a public school, a British school, a school for older children. I know it was also called into play in connexion with the English Presbyterian Church, which corresponds with the Free Church in Scotland; and it was also called into play by the Roman Catholic body; so that in Berwick-on-Tweed one can get a bird's-eye view of the working of the system in a population of something like 15,000. I think it has done much good. I would be very unjust were I not to acknowledge that the Privy Council system, as worked by the energy and ability of ministers and laymen connected with the Church of England, and by the supporters of the British and Foreign School Society, and by other parties in England who have had no conscientious difficulties in using it; and also by parties in Scotland in connexion with the Established Church, and Free Church, and Episcopalian Church, not to say by the Church of Rome, so far as their education has been one of the school—I believe that it has done good. I have no hesitation in saying that it has tended to elevate the standard of education. It has called public attention very widely to the subject, and has obtained statistics; and by money, by the enlightened views of inspectors, and by discussions in Parliament, I think it has given an impulse to public education. And in the schools with which I have been connected I think the advantages of it have been great. At the same time, I very strongly feel the great disadvantage of its denominational peculiarities. I feel this very much, that it is an extremely unhappy thing that a community should be broken up for educational purposes into religious denominations; that the children should not meet together, as in my early days I met with children of all other religious persuasions in the parish school. That is one feature of the parish schools which made them undenominational, though they were connected with one section of the Church in their government. The Privy Council system has been much less undenominational than the parish school system; and it has no tendency to become less denominational, at least in England. Perhaps in Scotland it may become less denominational, from the undenominational habits of the Scottish people. They have tended, on the whole, to prefer the best education, and the differences between them have not been so marked as to make a barrier in the way of social intercourse and education going on together. But in England it has been very different; and I know that in the town where I have the best acquaintance with education, the evils of what I cannot but call sectarian education are serious. All the children connected with the National Society are obliged to attend the Church of England, and are obliged to go to the Sunday schools of the Church of England. They furnish excellent secular education. Children of Nonconformists are attracted to those schools, and they are induced in that way to go to the parish church, and to the parish Sunday schools. It is,

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no doubt, better to go there than nowhere, but still it is strictly denominational temptation, and I think that Government is not in its right place in taking a position where it can be said that it is fostering one religious denomination in that way indirectly at the expense of others. I think that is a very grave objection to the Privy Council system as I know it has been worked. I do not cast any reflection on the excellent gentlemen, ministers of the gospel and others, in the Church of England, who work it in that way. They think they are doing right; and it is well known that the Privy Council have tried to introduce conscience clauses into the national schools, and have failed. The national school managers have refused to undenominationalize the system as worked in England.

And you think its tendency is that way, though its practical operation may not go so far, in Scotland?—Its tendency is in that direction in Scotland, although it works in a better atmosphere, so far as that is concerned.

Lord Polwarth.—In what way would these conscience clauses work?—To permit children that did not learn the Catechism to attend the school.

They object to that?—They do. The National School Society insist on the English Catechism being taught to every child that attends any of the national schools.

And the Catechism forms part of the examination of the school?—It forms a part of the regular business.

Then, in so far, it differs from the Scotch system?—Entirely; I think it differs very much for the worse.

The Lord Advocate.—As far as it has fallen under your observation, that is the state in which the schools are where they are aided?—Not all the schools; the British and Foreign schools are on a different footing. These schools include members of the Church of England and Nonconformists, and nothing but the Bible is taught in the time for religious instruction. No Catechism is allowed to be taught in the British and Foreign schools. It is perhaps a disadvantage in these schools, on the other side, that no Catechism is allowed, even supposing the parents wished it.

Then, apart from its denominational tendency, do you think the system of Privy Council grants not fitted to overtake the general education of the country?—Well, I fear I have a number of reasons for thinking that it is not so fitted, which I will not trespass far on the time of the Commission in stating. But one great difficulty is, that there must be a beginning by people who are willing to start, and who have means. The Privy Council insists rigidly on a school of a certain magnitude, a certain amount of accommodation must be given. There must be also a certain amount of money provided, a large amount—I believe in England it is nearly a half; I think, in the schools I have been connected with we had to provide a half of the building fund. In Scotland, I see, by looking over the last return of the Minutes of Council, that about a third of the building is provided by local parties, and two-thirds by the Government. That necessity of making a large provision of money to start with, must of itself limit the introduction of the Privy Council system into destitute or necessitous localities. And then they will not give any assistance unless they have a certified teacher. The teacher must have their certificate as a pupil apprenticed in some certified school, or must at least have been in a Normal School, and passed an examination and received a certificate. In every other case, with one exception in favour of what are called registered teachers of a somewhat lower grade, the master must have a certain minimum of educational attainment, higher than can always be secured for a school in a destitute district. And then the salary of that master must be three times as much as what was obtained in the name of a Government grant in connexion with the certificate. I believe the grant obtained by certificated teachers, till the Revised Code came into operation in England, was £20, and I rather think it is at present £20 in Scotland, where the Revised Code is not yet in operation; so that the salary of a master in such schools must be about £60. The Privy Council won't aid any school where the teacher is not, as they say, duly paid; and that is the standard of due payment, and it unnecessarily limits the introduction of schools by the Privy Council system. The local managers must undertake the payment of a large salary—whether made up by school fees, or by subscriptions, or some other sources—to the teacher from year to year.

How, in your opinion, does that operate upon a general extension of education?

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—It is a restraint. I think that a class of schools might be serviceable in certain districts inferior to what the Privy Council demands, and that the rules of the system in that way prevent the creation of schools calculated to meet the necessities of districts that are less favourably situated, from not having wealthy people within their territory, or friends from without that would help them. Those connected with such districts never think of making application; and hence I find that in districts like Orkney, the Privy Council system has almost no standing. I looked over the Minutes of Privy Council, and I do not think the Privy Council have broken ground in Orkney. There are no grants, or very few grants there.

That arises from the poverty of the locality?—Yes; they dare not undertake the charge of maintaining a teacher, and they can therefore get nothing from Government; so that the system helps those who are comparatively able to help themselves, and leaves those who are unable to help themselves unassisted.

What remedies would you suggest for the defects in the parochial system and the Privy Council system?—Well, it is easier always to point out defects than suggest a remedy that can be relied upon. It is a question I have thought a good deal about. I would not discard Government help. I think it necessary. I am not one of those who hold what is called the Voluntary Educationist view. I have not the least scruple in the matter. I think it is the duty of Government judiciously to assist education; and I think that Scotland is a proof of the blessing of such judicious assistance; and I think that England too, latterly, has been an evidence of the advantage of it; because, with all the disadvantages of the Privy Council system, I think it has given a decided impulse to education in England, and I think it may have also given an impulse to education in Scotland. I believe it has done much good, as worked by the Free Church, who have very largely taken advantage of it, and by the Established Church, through the parochial system. I believe that by means of the Privy Council system there have been schools, to a very considerable extent, planted where they would not otherwise have been, and much valuable instruction has thus been given to children who would not otherwise have received it. So that I think it has been in many respects a blessing both to England and Scotland, with the very great drawbacks I have already indicated. But if a system could be fallen upon that would liberate both the parochial system and the Privy Council system from their disadvantages, and retain the most important advantages that they undoubtedly possess, I should regard that as very desirable to be instituted. One great defect in both those systems is, that there is no body charged with a general superintendence of the education of the country, who have powers to originate anything in the way of superintending the whole of the country, and backing up that superintendence by advice and grants of money. The Privy Council system professes to do something of that kind; but then it does not originate. It must wait till it be called into play *ab extra*. Some local party must make a movement—must originate. Now, if there could be a body created that would originate education supply where necessity exists, that would be an improvement.

What kind of body do you point at?—If some board, some central board, charged with that matter, could be created, not necessarily to have absolute power, but to have some power of recommendation, and some access to the public purse, either through the Privy Council, or in some other way, to work in harmony with local parties.

What you point at is some central board that should ascertain the deficiencies of education in localities, and have some power to supply them?—Yes; some body that would set the system in operation where there is an educational deficiency. So long as we work merely in the localities, and leave everything to start from localities, I think there is a deficiency; and if the Commission would allow me to make a suggestion, I would introduce into localities some body, I think, somewhat more extended, and more generally representative of the whole community in a parish or district, than the heritors; some body that might work along with them, might be associated with them. The heritors have had so long a place in the education of Scotland, that it is not proposed—it would be hardly fair or right, as they still would be called upon to pay—to supersede them. I think they have deserved so much, in many respects, of the education of Scotland, that they are entitled, under any prospective system, to be continued; but

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if they were associated with other parties in the district—say with the ratepayers —it would be a great improvement. The public funds would still be called into play; but I would not use them exclusively. I think there should be local taxation for a purpose so important; and those who are rated for that purpose, I think, should be invested with some place—some vote in a matter so important.

By ratepayers you mean those rated for the poor?—Yes; or rated for the school-rate, suppose there was a separate school-rate.

Who do you call ratepayers?—I think those who are rated for education.

Have you any experience of the working of such a body in the management of a school?—I have no experience of the working of ratepayers in the management of a school. I am connected with a subscription school which, to some extent, represents ratepayers. They pay money to a considerable extent for school advantages in the district, and they of course control it in harmony with the parents; and my experience leads me to think that if the parties who pay were to have some share in the management, the wider area over which the taxation might extend would secure a more general breadth of interest in the matter of education in every locality, than where it is confined to the heritors.

Should you have any apprehension of want of intelligence or education operating with such a body injuriously?—So far as Scotland is concerned I should have none. I do not think there would be any fear. I do not know how far it would do to introduce a principle that perhaps has not been recognised in our public administration,—the introduction of parties to the control of a system who don't pay; but in any school that was originated upon such a contemplated system, a portion of the parents in the community might be elected or selected in some way that might be defined, without being included in the ratepayers; or even if they were, there might be an additional number of parents representing the children attending school, conjoined with the heritors or ratepayers.

Have you ever known that?—I have never known that. That is something which is a new feature; but whether that would not work well I do not know. I am not sure that it would not; and I think it would undoubtedly secure greater interest in the school. It would secure greater contact between the authorities in the school and the parents. Managers of schools may at times have to hear complaints of the parents, unfortunately, against the teacher, as to the management of the school. There may not be the least grounds for these complaints, but if the parents were associated in the management of a school, I think they would have a much more direct introduction to those who are the authorities in such a case. They would often prevent the necessity of such complaints, and there would be a much less offensive interference, so to speak, with the teacher than in cases which I have known where matters come to a dead lock. The parents get dissatisfied; they complain; and there must be a formal investigation. I think that if, in any system, a limited number of parents, heads of families, or others qualified, could be introduced, who might anticipate grievances—might have a control, and be kept in check by the more disinterested feeling of heritors and ratepayers who were not parents, such a system, though still theoretical in the history of Scotch education, would work well. That is my impression: I cannot say more in regard to it.

You would only have that an infusion?—Only an element; I would not have the matter entirely in their hands.

You would not give a preponderance to these parents?—Not a preponderance.

You are assuming that these parents are not even ratepayers, and of course a lower class?—Yes; but perhaps it would be better to introduce an additional number of the parents, whether ratepayers or not, as representing the parents generally. That would be the safest way of introducing parents, because you would have a security for intelligence.

That is a novelty in your experience?—Yes; I have known cases where parents alone manage schools in adventure schools; and I believe parents are thoroughly to be trusted. With adventure schools of the better class they are thoroughly able to superintend the teacher and manage the whole concern.

Then, the kind of system you would point at would be some central authority to determine where education is required, with power to them to supply it, partly by Government, and partly by local rate? That is my idea; and my survey of such statistics as I have endeavoured to familiarize myself with, has convinced me that some scheme of that kind would have advantages such as would exist in no other.

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Are you sanguine, that if you had such a scheme, the education of the people substantially could be overtaken?—I think so, because I think a money rate at present would be more judiciously distributed than the Government grant has hitherto been distributed. A good deal of it has accumulated in certain localities, where the denominational system works well. I could point to places in the county of Berwick and elsewhere, where there happens to be a Free Church school and an Established Church school, that is, a parochial school, which was till lately under the entire control of the Established Church; and in these places there has been a complete supply—in some cases more than a complete supply—of the educational necessities; and I give all the credit to the Free Church, and thank them for having come in, and with Government help done that work. But in other cases, where the Free Church does not happen to have a position, in equally necessitous districts, or any other Church, the whole has been left either to the parochial school, with side or subsidiary schools, or to adventure schools such as are not reported on at all in these statistics. And hence there is a very great contrast as to the amount of supply. So that one sees that there is an expenditure just now of public money that, if more judiciously husbanded, I would say, by a central authority, would go a longer way. It would not need a much larger outlay to meet the educational necessities of the country, if it were better distributed, and more judiciously laid out.

Now there are one or two objections to such a plan: in the first place, do you think there would be any jealousy of a central authority?—Well, no doubt there is a tendency in our times to protest against centralization, and a great deal would depend upon the character of the board, or the position of it.

Do you think the Universities could be brought in to supply that?—In one sense that would look at first sight a not unnatural suggestion. They are connected with education; they are the head of the educational system in Scotland; and they have all now been more completely dissociated from any denomination than before, and may take a place in such a scheme, so far as intelligence goes, and theoretical acquaintance with education; but I do not know that they would secure the public confidence to the extent that is desirable. They would be looked upon as too scholastic, perhaps.

In what way do you think such a board should be constituted?—I may say that I very much admired that feature in the last bill for Scotland, whereby the examiners were obtained from Universities. I think they were thoroughly fitted to conduct that part of the work, and it could not be in better hands; but the actual administration of a school system is so different from the training and habits, I may say with all deference, of learned men, who are confined very much to a certain circle of inquiry and speculation, some of them at least, that I think it would need at least more business habits and local knowledge.

I suppose you point to a board nominated by the Crown, as some other general boards are?—I should think such a board might be very safely left to the Crown to nominate; and the Crown, I have no doubt, would find gentlemen well qualified for the task, it might be in various professions. There might be some connected with the Universities in such a board.

But you do not think that any public jealousy of such a management would interfere with its efficiency?—I do not think so. Of course, it would be an experiment. We have not had anything of the kind tried. The municipal authorities might have some connexion with it—gentlemen who have distinguished themselves in the municipal department in Scotland; but I am not prepared to make any more definite suggestion on that head.

Well, as to the local management, in the first place, do you think you could obtain such management in all the parishes in Scotland?—I think that retaining the heritors,—that would be one element at least. Then in every parish there would be additional ratepayers, who might be thoroughly trusted. And if there was an infusion of the parental element, either independent of the ratepaying, or selected from parents who were also ratepayers, I think there would be some guarantee for the good working of the system.

Do you think that the parental element would work well in the remote Highland parishes?—Well, if it were left entirely to itself, I think not; but I think the very recognition of such an element would make things smooth,—would enlist the co-operation of parents more heartily in what is professedly a

national system. And I think also that, in all those districts where the denominational system has not already got a footing, there are ministers of the Gospel of different denominations who, I think, would naturally be employed. I do not say that it would be proper to introduce any provision of that kind into any bill, but one is almost certain that they would be called into play. Rev. Dr. Cairns.

You don't think that *ex officio* they should have any place?—I should think that would hardly be requisite.

Have you any observations to make upon the difference between the Revised Code and the Old Code?—I have studied the Revised Code as carefully as I could, and have seen the working of it to some extent in Berwick-on-Tweed; and I think we have hardly yet data, even in England, to judge as to how the two systems would work in comparison with each other. In an infant school, of which I am a director, the Revised Code has worked so far somewhat unfavourably, although there it does not require examination in order to entitle the school to the capitation grants which are now the sole source of income. Even in that infant school, although examination is not required, the Revised Code has very materially diminished the resources of the directors. They are obliged to appeal to the subscribers, and the school has suffered. I do not think it will suffer ultimately, as perhaps the subscribers will subscribe more liberally; and wherever there are means among the subscribers, I do not think it is a calamity that the grant has been reduced. Perhaps it was excessive, and the training of pupil-teachers and other matters throughout England was perhaps overdone. So that I would leave the Revised Code a little longer on its trial; but undoubtedly it has reduced the resources of that school, and I believe other schools have suffered. I hold in my hand a report of a considerable section of schools of the English Presbyterian Church in the Northumberland district, which is in all respects similar to the Berwick district. There is a loud complaint that in the eight schools here reported on, which are very similar to country schools, in Berwickshire, there has been a diminution of £158, 10s. 2d. from the introduction of the Revised Code, thus very materially reducing the salaries of the teachers, and crippling the operations of the schools. I think that in rural districts it will most certainly be the case that the Revised Code will yield less money.

Don't you think that paying for results is, on the whole, a sound principle?—I think that so far it is; but there will be a danger that those results for which payment is given may get too large a share of attention; that teachers will be tempted to concentrate their attention on these elementary branches, to the neglect of grammar, geography, and the higher branches, perhaps, that have hitherto distinguished our parish schools. I think that both parish schools and Free Church schools in Scotland will be tempted to limit themselves too much to the elementary branches. I do not know that it will necessarily be so, but there will be some temptation to do so. That is the only drawback to the undoubtedly sound principle of paying for results. I think that is better a great deal than the indiscriminate handing over of money to teacher and pupil-teachers without any other security than the report of the inspector. I think the Government was called upon to take some step to ascertain that its money was not thrown away; but I fear there will be that drawback that, in rural districts, the evil of the Privy Council system in not meeting destitution will be aggravated, because less money will be given; and in schools of a higher standard the pupils will be dragged too much back to the elements, and kept there. These are my fears in regard to the Revised Code.

In regard to religious instruction in the schools, what is your general view?—Well, I never have had any fear about that in Scotland. I have had the fullest confidence that, upon any system almost that could be started, there will be substantially the same religious education. In adventure schools, where there is no law except the will of the parents and the teacher, the Bible and the Shorter Catechism are the standard books; and in the parish schools, by law there is no requirement that religion should be taught. I believe that is done by the vote or decision of the board of heritors and other authorities that control them. There has been no national requirement of that kind. It has been done by the nation in another sense, by their spontaneous desire and wish, so that it has become, one may say, a national necessity, so far at least as Presbyterian Scotland is concerned, to have the same style of religious education in our schools.

Rev. Dr. Cairns.

Then you would not expect any difficulty in that matter as to legislation?—I have not the least anxiety on the matter.

Should you object to legislation on that subject?—I should not object so much as some of the members of the Church of which I am a minister, but when there are so many conscientious men who have insuperable objections to it, I think they should be consulted. I myself, although I perhaps could reconcile my conscience to it, would rather not have it. That is my own personal feeling. But rather than that there should be no extension of education, by a Bill expressly including the present religious instruction, I do not know but, if it came to that alternative, I might with some difficulty reconcile my mind to it; but I should be reluctant to do so.

Sir J. Fergusson.—You object to legislation because it is against the wishes of others?—I think it is an objection to legislation that so many members of the Church of which I am a minister have conscientious difficulties on the subject, and I also share their difficulty.

Mr. Dunlop.—In the formation of your local board, you anticipate that if the parents were represented, the management would be more cordial, there would be less likelihood of complaining, and if anything was amiss it would be corrected through the board, without the necessity of a formal complaint to the board?—That is my feeling. I think the introduction of the parents, though a novelty, would make the system work smoothly and cordially. I would not expect, unless they had a preponderance, that there would be quarrels between them and the other elements of the board.

Assuming the board to include *ex officio* members, would you include the parish minister?—Well, that is not a point I would fight about; but as in any projected system I would not make any express provision for the appointment of any minister of religion as such, I do not see any reason to make an exception in the case of the parish minister.

Then you would prefer that he should be capable of election?—I believe he would be elected in every case as a matter of course; and that is one reason why I would not make it a matter of controversy as to its being a provision in the bill, because it would happen at any rate.

And have you any apprehension that, if the parish minister and one or two Nonconformist ministers were all elected, there would be any disputes or bickerings?—None in the world, because they would all agree in the same religious system of education.

You don't think our Westminster Catechism is Presbyterian, in any sense of its being characteristic of Presbytery?—Not necessarily so; because all the doctrines in it have been defended as ably by Episcopalians and Independents as by Presbyterians, and are to this day preached and defended as ably by them as by Presbyterians. I should see no difficulty whatever in members of the Church of England consenting to use the Westminster Catechism if they are of what is called the Low Church.

You don't see anything in our Catechism in the least at variance with the Articles of the Church of England?—No; I myself could subscribe to the doctrinal Articles of the Church of England. I have often read them over, and I heartily approve of them. I know this is a matter not entirely pertaining to the subject; but I may say that in point of brevity, so far as that is an advantage, they compare favourably with our own Westminster Confession. I think that perhaps something intermediate might be a better measure of religious confession.

You think that for the purposes of schools you might have an abbreviated Catechism?—Well, it would be very difficult to make any change upon the religious symbols of any denomination without awakening jealousy and fear. But for that difficulty I should at once say that there would not be the least difficulty in having an abbreviated Catechism if it were necessary. I believe that if the Presbyterian denominations in Scotland wanted to leave out some portions of the Shorter Catechism that might be thought more difficult for elementary instruction—although I hardly think that ground would be taken—it could easily be done; I believe they would agree in doing it, but I do not think that would be requisite. I believe that, for practical purposes, the Shorter Catechism could not be improved upon as an elementary book in the parish schools.

Lord Polwarth.—I think you mentioned that in the parish schools there would

be no sort of difficulty with respect to religious teaching. Now, in reference to the proposed local board, would you give the board the same power over teachers that the managers of adventure schools have at present?—I think there should be some recourse to the General Central Board. I would not leave the matter absolutely in the hands of the local committee. I would not hesitate to intrust to them the election of a teacher, when the teacher is examined by a competent authority. Rev. Dr. Cairns.

You assume that it is desirable that the teacher should be elected for life?—Yes.

Would you give power somewhere to see that there should be a continuance of his religious teaching?—Yes; and I have not the least doubt but the local committee could be trusted.

But what power would you give them?—Well, suppose they were dissatisfied, I would make that one of the points for which a teacher might be removed, as I would make any other shortcoming on his part. And to what extent an appeal should be to some other authority than a local committee I would not care exactly to define. It might lie with the central board, or some central authority. I believe the Sheriff has at present by law some power of suspension or deposition. But I think the local committee could be trusted with the power of correcting any deficiency in religious instruction; and I think the same penalties should be brought to bear upon the teacher for a deficiency in that respect as would be brought to bear upon him for deficiency in any other department.

Even though that would amount to giving the local board the power of dismissal?—If they had the power of dismissal for other matters I would give them power to dismiss for that.

But they have not the power of dismissal at present until he is brought before the Court?—Suppose they got the power of dismissal for other matters, I would give them the power for that matter; and suppose they have not the power for other matters, I would refer the power for that matter to the same body that may have a veto upon them.

Then, you would give a much larger power than has yet been suggested to the managing board?—I don't think so.

To what extent would you give power to the managing board?—Suppose they felt dissatisfied with the administration of the school, they would complain to the teacher, who naturally would be amenable to their complaints. Perhaps he would not be guided by these complaints, but would still persevere in the conduct complained of. Well, they might have the power of bringing the matter before the central board. I am not at all deciding whether they should have the power of dismissing the teacher or not. I would hardly care to pronounce a categorical opinion upon that. I should not be disposed to allow them to dismiss the teacher without some veto—some recourse by the teacher to the central board. That is my present inclination on the matter; but I have not made up my mind fully upon it. But, suppose the central board entertained the question, and regarded the complaint made against the teacher as well founded, they might retain in their hand the power of dismissal. I would regard that as quite a sufficient security for religious instruction being certainly and properly imparted. If it were considered too dangerous—too extensive a power to give to the local committee the power of dismissing the teacher without an appeal,—which probably it would be—I think it would be sufficient to have some central authority, because these local committees would differ very much in their competency. One cannot expect to find, in a country like Scotland, an equally well qualified local board in every district. There are certain local boards in which I would have no difficulty in reposing such a power; and their judgment would most certainly be confirmed. There are other boards where there might be more hesitation and risk in granting the exercise of the power of dismissal. And hence it is desirable that there should be a check upon the local boards, and a safeguard for the teacher, in the veto upon his dismissal that would be retained by the central board.

That would amount to a court of appeal?—Yes.

And that court of appeal would require to be of a somewhat ecclesiastical or doctrinal nature?—Well, I think if they found that the local parties were dissatisfied—if they found, for example, that the Free Church people, the Established Church people, and the United Presbyterians, and the Episcopalians, were all dissatisfied with the religious instruction, I think that such a board, without at all

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raising the question of doctrine, would say, "This man is not adapted to give satisfaction to this district;" and I think in that case they would be warranted in superseding him, inasmuch as religious instruction was one of the things necessary to be attended to. I do not think the doctrinal question would be likely to arise.

Would that not amount to a dismissal at pleasure?—Well, I think the fact of complete incompatibility between the teacher and the district that he was appointed to instruct would warrant the dismissal. Though that might be occasionally a harsh thing, yet I would not hesitate to intrust the central board with that power.

Would that not be a point that the schoolmasters in general would object to, more superintendence?—I think they would have no reluctance to submit to a board constituted as this board invariably would be.

You allude to the central board?—Yes.

Can you point out at all to us how you would compose that central board; it seems somewhat difficult, retaining somewhat of an ecclesiastical composition, and also of a legal composition?—Well, I think that the very same features of Scotland that would make such a board in the lower region safe, would make it also safe in the higher region. One could hardly fall upon parties who were incompetent when properly associated in sufficient numbers.

Do you not trust more to the feeling of the Scotch mind, in the way it has been brought up and formed, than to any regular enactment?—I do.

Is it safe to go on in that theory?—I think so; because I find this, that Scotland without enactment has come into this state. The present religious state of Scotland is not the result of enactment, securing that certain things should be taught in the parish schools. A religious life has grown up, and things have risen to their present state without religious enactment; and there would be the same guarantee in the future.

Has not the religion taught in the schools of Scotland, which have grown out of legislative enactment, formed the character of the Scotch people?—I think there has been action and reaction; I think the character of our Scotch people has acted upon our legislation, and perhaps has been one of the very reasons why legislation has not felt it necessary to enter upon the field of enactment in that matter.

And you assume that the Scotch character is so good now that the future upbringing in religious education of the people, may be left entirely to the character and feeling of the people?—I think it safely may; and if it cease to be so, I think it would be all over with us.

And the central board is to be formed in what way: by the feeling of the people or by legislation?—I think Parliament would consult the feeling of the people, as it does in all similar cases. The Legislature of a country, if it is wise, understands public opinion, and selects men who are representative men in such a case.

Then you would leave the Commission very much where we began, without giving us any very defined opinion as to how it is to be formed?—Well, I do not think it would be possible to be much more definite. I have not the least doubt, that Parliament, acting with a proper regard to the views and feelings of the Scotch people, would introduce into such a board a sufficient number of the national representatives. I have no doubt that the matter would be safe in their hands.

In short, you have perfect confidence in Parliament?—I have not absolute confidence in Parliament; but I have great confidence in Parliament when it is amenable to public opinion. I believe that public opinion would at once correct any tendency to error in that direction. Were anything sectarian to hurt the constitution of the central board, anything narrow, anything violently offensive to the religious feelings of Scotland, it would make shipwreck of the whole system. The Scottish nation would not submit to it.

Perhaps it would be safer to leave things somewhat as they are, than to embark in a speculation of that nature—I do not mean not to extend education?—So far as the teaching of religion is concerned, I should not hesitate to leave matters as they are, in the certainty that they would be the same as under any other system; but when the system requires to be extended, and the central board to be called into existence, as I think, for other purposes, a larger representation of all classes of the community should be introduced into the local

committees. It seems that the present system could not continue—that it must give place at any rate—but I do not see the necessity for creating anything new as a security or guarantee for the religious instruction of the people. I may be too sanguine, but these views I have always held, and I think experience has confirmed their soundness. The Church of Scotland undoubtedly has watched over the religious instruction of the parish schools; but it has been seconded by the feeling of the community. Rev. Dr. Cairns.

Is there nothing in having a person responsible to the public, whose duty it is to watch over the religious education of the country, as the parochial minister is now, it being his duty to inspect?—I rather think there is only a liberty of inspection. I do not think there is now the same duty as before. There is the liberty of inspection ordained by the Presbytery; but though the bounden duty and the obligation of doing so may be left by the Church upon the parochial ministers, I do not think it is now left by the nation. It seems there is now a change in that respect, if ever there was an obligation, as I think there was.

Does the nation not virtually call upon the Church to attend to the religious education of the people?—I think that according to the strict theory of an Established Church, undoubtedly the nation does call upon the Church to do so; but that theory has been in so many places invalidated and departed from, that I should think it hardly safe to reason upon the hypothesis that it still remains intact.

But it is a strong element?—I think it is; and therefore I would confidently expect, and would think it strange if it were not so, that the parish minister would be introduced into that contemplated school committee of a district.

And some members of the Church in this central board?—I have not the least doubt that it would be so. I should protest against it if it were not so. I should regard it as a most unrighteous thing if the Church of Scotland were excluded from any board that might be created. So far from wishing the Church of Scotland free from a large and influential place in the future education of the community, I think its past services, and the amount of effort and labour that it has lately, especially within the last twenty years, bestowed upon education, and the visible improvement which it has made on many districts by its attention to the subject, fully entitle the Church of Scotland to a large and important place in the work of the continued education of the people. I would be very unjust if I were not to acknowledge that. But I do not think it is a thing for which the Church of Scotland should strive, to have the parish minister singled out from all other ministers of religion in a legislative enactment, and by an enactment necessarily made a member of a school committee. I do not think they would gain anything by it. I do not think that morally they would gain anything by such a provision. Their influence would still be felt, and less obtrusively, less painfully to some other members of the committee, were a different arrangement adopted. I myself, however, would not fight about that. If there were nothing else in the way of obtaining such a school committee, but the concession from the side of the Nonconformists that the parish minister should be enacted a member of the school committee, I would not fight about that. I would certainly take such a scheme thankfully; but I would prefer the other. I do not think it is worth the while of the Church of Scotland to fight about it on the other side.

Mr. Mitchell.—Would it be your opinion that, suppose there were local committees composed of select men in the districts of Scotland, and thereby interesting the various sections of the Presbyterian Church of the country, the guarantee for religious instruction would rather be widened than diminished?—I think so; I think the introduction of new blood, as it were, into the system, —that being, as I suppose, pure in regard to religion,—would strengthen the whole system.

Do you think there are any public and social advantages that would be derived from the institution of a general national system of education?—Well, I think that one great advantage, one unspeakable advantage, would be that the unity of the nation would be better reflected. The unity of interest in education would be far more fully and beautifully reflected than when it is broken up into denominational sections. That is one great advantage of a truly national system. And there would be the great advantage also of the children being trained from the beginning to disregard all denominational differences, by habitual school association. I think that is an unspeakable advantage; and although, as I said

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before, the healthy state of the atmosphere has hindered the denominational spirit from pervading Scotland to the same extent as England, yet there has been a tendency in that direction. That, I think, would be checked. We should have a better result than the present, more breadth of sympathy and kindliness of feeling from the members of different Churches; just as in the Universities, what an unspeakable advantage it is that we are all trained together. I look back upon my friendships with members of the Church of Scotland, and members of the Free Church, which dated from my college times; and that I could not have done had we been trained in separate colleges. I think the same advantage could be carried a step further, to primary education.

Sir J. Fergusson.—Don't you think that the Established Church have an ancient right in the parish schools, which does entitle them to a distinction over and above that which any other denomination can possess?—I think that could be pleaded with more justice before the bill which withdrew the control of national education so much from the Established Church.

You mean the bill which admitted persons of other denominations to be schoolmasters?—Yes; and removed the examination and appointment of the teacher out of the hands of the Presbytery.

But, then, still the superintendence of the Established Church was preserved, although it was to be exercised in a different manner, the Presbytery having power to initiate and decide upon complaints?—I think the introduction of a different element, such as the Sheriff, in all cases of a vital nature, such as suspension and deposition, very much altered the relation.

But still, the Established Church having suffered that alteration in its ancient control, would those whom you represent not consider that it would be fair that some superior position should be reserved to the Established Church, having regard to the original position of the parish schoolmaster as the assistant of the parish minister?—Well, I should certainly answer that question differently if there was a great preponderance of influence and members on the part of the Established Church of Scotland. If it still continued to have so great and determining an influence upon the whole matter of education as it once did, and was likely to do so under a prospective board, I think it might be fair to make a legislative distinction. But as I don't think that would be the case—as I don't think there will be any natural preponderance or ascendency, if I may use such a word not in any offensive sense, especially in many districts where in fact the National Church, as is well known, is in a great minority, such as the counties of Sutherland, Caithness, Ross, and other counties; it would seem fitted to give offence if you have the parish minister, by legislative enactment, introduced into the committee, while the other ministers of religion are not. I think that would not be fitted to introduce harmony and concord into the board.

But would there not be a certain danger, in the eyes of Presbyterians, under a board constituted as you suggest, that in some cases the numerical preponderance of Roman Catholics might put the power in the hands of that body?—Well, I do not see how that would prevail to any very considerable extent; but we cannot have a national system, in a country where the population is various, entirely in all cases as we would wish. There must in some cases be a less evil—if you call it an evil—in order to secure a greater advantage; and in order to secure, what I consider the great advantage of a national system, I would rather submit to an occasional preponderance, even of the Roman Catholic element in certain schools, with the understanding that no child shall be taught anything to which his parents objected. I would rather submit to that than I would see the Government money annually given to Roman Catholic schools as such, on the denominational principle. I think that that is a much greater infraction of the right state of things than the occasional ascendency, even of a Roman Catholic element, in a parish school committee. There would be, I may say, a virtual unity from the unity of the population; there would be a virtual unity overhead in Scotland. There would, taking things in the gross, be so immense a preponderance of what is the national religion, in the widest sense, that I would allow for an occasional exception, whether it was an Episcopalian element that was not satisfied with the Presbyterian, or whether it was an occasional Roman Catholic element.

Then you assume that, in the event of a general national system, the grants to certain exceptional denominations would be done away with?—That would

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be my preference. There might be a determination to continue grants to exceptional denominations. That might be thought the best way of settling the problem. That is a moot point. I myself would prefer that the denominational grants should altogether cease, and that the whole system should work upon the same theory, and with the occasional preponderance of a local Episcopalian, or even Roman Catholic committee, with the distinct understanding that no child was to be taught anything in the school which was objected to by its parents. I would rather submit to that than I would see the continuance of these denominational grants, unless they were limited entirely to secular instruction. Were they limited to secular instruction it would be different.

Lord Polwarth.—Would it not virtually come to an enactment that Parliament is not to give money to a Roman Catholic school in Scotland: do you think that we in Scotland could ask Parliament to come to such a resolution?—No; I do not think it would be so, because in some parts of the country—in some parts of the Highlands where there is a Roman Catholic population—they would have instruction given according to their own views and notions; and there the rest of the population might receive the secular instruction without any scruple, as is the case just now under the Irish National School system. The granting of so large an amount as at present to a denominational system, as such, which I think is felt to be a great grievance, would come to an end; and the amount of money that would be received for schools that are attended chiefly by Roman Catholics would be less under such a system as I have suggested than it is under the present system. But I would leave that point undecided as to whether it might be necessary to some extent, after all, to continue the present system of Privy Council grants. I would leave that point unsettled; but if there was a general inclination to act upon the other system, I would not hesitate to fall in with it.

The Lord Advocate.—Suppose that the result of a national system were that in two or three parishes in Scotland the national school should, by the preponderance of Roman Catholics, be a Roman Catholic school, with a conscience clause, exempting children from receiving their religious instruction there if their parents desired it, would you be afraid, in point of principle, of facing that as the result of a national system?—I would not.

Then, on the other hand, supposing that other people, more timid of that result, thought it better that in such cases there should be a separate denominational grant for the Roman Catholic school, if that were necessary to the obtaining of a national system, you would not greatly complain of that either?—I would regard it as a necessary evil, and a better state of things than the present system of denominational grants without a national system of education.

Now, about the position of the Established Church to the schools, I presume that originally our parish schools are traceable to a period when there was scarcely any Dissent in Scotland?—I think so.

And that the theory was, that it was a system for a people united in religion?—I think so.

When the period arrives that the country is split up into religious divisions, but maintains its Presbyterianism, do you think that the body that turns out of the parish schools all the nonconforming Presbyterian teachers is entitled to take very high ground about their connexion with parish schools?—Well, I think that is necessary to be brought out. Although the parochial system has been so far liberalized, it has not been liberalized to the extent I and all Nonconformists desire. We wish to have the stigma, as I may call it, which still remains upon Nonconformists removed. They are at present legally eligible for the office of parish schoolmaster, but I do not know that any have been elected.

But, at all events, they were all turned out at one time?—Yes; they have now become legally eligible, but, so far as I know, not one has been appointed.

They were called upon to make a re-declaration of their opinions, in order that, by declining to declare that they submitted still to the government of the Church of Scotland, they might be known to be Nonconformists, and, being Nonconformists, they were all turned out?—Undoubtedly; the same test was put to the parish schools as to the Universities.

In the British and Foreign School Society's schools I believe there is no catechism taught?—No.

Is the Bible always read, and religious instruction communicated from Scripture?—Yes; I have examined a British and Foreign school in religion for a num-

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ber of years, and have been struck with the amount of religious proficiency shown, although I would prefer a catechism where it could be used.

But while it is a system of schools where a catechism is not taught, it is by no means a system of schools where religious instruction is excluded?—The very opposite; because I do not think better answers on all the points I inquired into could have been given than were given at the last examination of the British school in Berwick,—better answers on doctrinal as well as historical points. The teacher of that school was a member of my congregation, and, so far from being a man destitute of religion, is one of the most devout men I have known in the teaching profession. He has now been removed to Yorkshire, and another teacher has succeeded in whom I have equal confidence.

As I understand, you would decidedly object to any statutory enactment which would exclude religion?—I would object as much to that as I would object to its formal introduction into an enactment.

You would object a great deal more to that, I suppose?—A great deal more. I would never dream of any party asking that it should be formally excluded.

I suppose you are quite satisfied that the public generally in Scotland would never be reconciled to the exclusion of religious instruction from the schools by Act of Parliament?—I think they would not.

But that they would be quite content to take an Act of Parliament in which there was no express statutory provision upon the subject of religious instruction?—I think so; the denomination of which I am a member, in so far as not adverse to State education, would certainly be thoroughly satisfied with that; and I believe the other denominations have the same reason to be satisfied with that as with the present system, which contains no such enactment.

You mentioned that the denominational system has not taken hold in Orkney: is the United Presbyterian Church not very strong in Orkney, and they do not like the grants?—They did not like the grants, and that may be one reason why the system did not take hold there. I noticed in one parish in Orkney how far back they are in regard to education compared with any parishes in Berwickshire. I was quite struck by the extent to which, as proved by the statistics, Orkney is not reached, either by the parochial system, or by the Government system. I may mention two parishes, the one Orphir, and the other St. Andrews. In the one of these, Orphir, the population is 1033, and the number of children at school is only 98 in the whole parish. It is possible that some adventure schools may be omitted from the return. In St. Andrews, out of a population of 1681, the number attending two schools, one belonging to the Church of Scotland, and another to the United Presbyterian Church, was 41, or not one in forty. There must be some mistake there.

Have you anything else to suggest?—I would humbly suggest one thing, which has very much impressed me, that in contrast with the Privy Council system, the old parochial system has this great advantage, that, to a great extent at least, its teachers were college-bred men—men who had received a University education, and were liberalized by that education—who had a breadth and a compass of sympathy and intelligence that I think not so likely to be obtained by the Privy Council training—by training as pupil-teachers, and then in the Normal School, and introduction from that, I think, lower platform to the work of instruction. I cannot but think that the old system, if we could in any way secure a continuance of college education to the teachers of Scotland, was very greatly superior. I may say for myself that, being the son of working people, if I had not had the advantage, at a parish school in a rural district, of learning Latin and Greek from the parish schoolmaster, I don't see that in any other way I could have received a liberal education. And that state of things was not singular in my case. I know other cases of a similar kind—cases of working people who, from the same parish school, have become ministers of religion. A classical teacher in George Heriot's Hospital, Edinburgh, was educated in the same parish school; and I know others who have been equally benefited from that arrangement. And I believe that the case of that parish is not at all a singular instance. I think anything that would preserve that peculiarity in our primary education would be a great blessing to Scotland.

Mr. Dunlop.—Was that state of matters, in which teachers received a University education, not dependent a good deal upon this, that parties looked forward to the Church?—Well, they may have begun studying for the Church, but many

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of them did not receive settlements in the ministry, and the large and liberal education they received, was turned to account in that way afterwards.

What do you think of the effect upon the teacher of his looking forward to a totally different profession as the ultimate result of his efforts?—That is a drawback; but I believe some arrangement could be fallen upon whereby there would be some security for more of the future teachers of Scotland attending the University.

In fact, if there were a number of middle schools, and a higher range of professional status for a man when he became a teacher, in all probability they would prepare themselves by a University education for filling such ultimate positions?—I think so; and altogether that would have a very happy effect upon our education.

Lord Ardmillan.—Perhaps the recognition of a degree as superseding some other means of certificate or inspection might be desirable?—I think it would.

We have made the recognition of a degree in other professions—at the bar—a very good test of all liberal proficiency apart from professional proficiency; and something of the kind might take place with regard to the schoolmasters?—I think so; anything that would encourage the receiving of a University education by future teachers would be a very great public blessing. Another idea, which I do not think is peculiar to myself, and which is perhaps not very popular, is that I have a kind of liking to what by a harsh name is called compulsory education. I believe that if we could secure the attendance of children who would not be brought to school by any other means than by a law, such as exists in Prussia and other parts of the world, that would not interfere with the liberty of the subject in any injurious way, and I believe we would do a world of good to those children themselves. Of course, a Commission like this cannot take that matter up; but I feel that a very great evil might be remedied to some extent by some such measure.

Lord Jerviswoode.—It is right you should know that that has been frequently brought before us?—I feel that some compulsory measure would be a great blessing. I know that at present children are allowed to loiter about, whose parents would at once send them to school if there were the least investigation.

The Lord Advocate.—Have you any means of knowing whether that would be unpopular?—I think it would not; because we have found compulsory vaccination succeed, and similar interferences have done a great deal of good. I think it is a totally mistaken idea of liberty to leave everything to the lawlessness of the least instructed class of parents of a country.

Lord Jerviswoode.—To what age would you think it necessary to carry on that compulsory education of a child?—I would not carry it too far, because the necessity of employment might interfere.

We have it in evidence that children who have been well educated when quite young, and then employed without being sent back to school, lose their knowledge to an immense extent: suppose they are taught till ten or twelve, and then sent to work in the fields till seventeen or eighteen, and then come to be examined, they are found to have lost their knowledge?—There are a few ways in which a test could be applied that would act indirectly, where the possession of knowledge would be held to be indispensable to employment. This would be the easiest way of doing it; but I would have no objection to an absolute educational test, that children shall be taught, or that reasons shall be given for the contrary that shall be satisfactory. I may say in conclusion, that I feel a great pleasure, as a United Presbyterian minister, in anticipating that we shall be introduced into larger connexion, not as a denomination, but as members of the community, with the school system. We have avowedly not taken our part in that matter from our reluctance to having anything to do with denominational grants; but I am certain that I speak the sentiments of the whole denomination when I say that nothing will be more welcome to us than to enter heartily into such a system as I have ventured to sketch, if it should ever come before the country.

Monday, 16th January 1865.

THE LORD ADVOCATE IN THE CHAIR.

RALPH R. W. LINGEN, Esq.,—*examined.*

Ralph R.W. Lingen.

The Chairman.—You are secretary of the Committee of Council on Education?—Yes.

And have been so for a very considerable period?—Since the end of 1848.

You have had under your administration the system both in England and in Scotland?—Yes.

Would you explain, shortly and generally, the system upon which the grants were originally distributed?—The objects of the grants have varied so exceedingly in different years, that, if I were to do that, I should have to give an entire history of the administration of the Committee of Privy Council.

Can you state in a general way the variance in the mode in which these grants have been distributed in Scotland?—The Committee of Council was constituted in the year 1839, and at that time the only aid which they gave to education consisted either in providing for the inspection of schools, or in providing for the building of them. That system continued in force until the year 1846. At that time the Committee of Council undertook to provide for the maintenance of schools as well as for the building of them.

Do you mean the maintenance of the buildings?—The annual maintenance of the schools, whereas before they had only provided for the building of schools. From the year 1846 until the year 1861, the form in which aid was given for the annual maintenance of schools consisted in grants towards the salaries of the teachers,—to principal teachers, that is,—stipends for the pupil or assistant teachers; and in England, certain grants which were called capitation grants, but which were never extended to Scotland; and some trifling grants were also made for providing books and maps for schools. Those grants, which I have just spoken of, were for the maintenance of elementary schools; but at the same time very liberal aid was given for the maintenance of Normal Schools, in which teachers were prepared for their profession. That is a general description of the form in which aid for the maintenance of schools was given up to the year 1861. In that year, in consequence of the Royal Commission on Education, which had been appointed in the year 1858, the Committee of Council thought that it was desirable so far to modify the form of annual grants, as to do away in a great measure with the appropriation of them to particular objects; and instead of paying so much towards the salary of the schoolmaster, so much towards the pupil-teachers, so much towards books, and so much in capitation, where that grant applied, they adopted the plan of paying one gross sum to the managers of each school which was to receive grants at all, the principle of calculating the grant being the number, the attendance, and the proficiency of the scholars, and certain conditions as to efficiency which the school itself was to fulfil. That, in a very rough and general way, is a description of the Committee's operations.

At present, what is called the Revised Code, which you have now described, is in operation in England?—Yes.

To what extent is it in operation in Scotland, or is it to any extent?—In Scotland it is only in operation to this extent,—the schools are examined and inspected according to the Revised Code; but the grants are paid as they used to be under the system which existed previously to the Revised Code.

What were the general evils, can you tell us shortly, which the Commissioners reported as having arisen from the former mode of distributing the grants in England?—They were of opinion that sufficient security was not taken for the individual instruction of the scholars.

They thought they had evidence to that effect?—Yes.

In regard to the money which was paid, have you any facts to state to the Commissioners to show whether the money was advantageously distributed for the public interest under the old system, or whether there was a good deal of

abuse in the mode of its administration?—There certainly was considerable evidence to show that a greater number of pupil-teachers was maintained than was necessary. The Committee of Council provided the entire stipend of every pupil-teacher, and pupil-teachers were admitted in the proportion of about 1 to every 40 scholars in average attendance. It was found that in schools which had just got above the limit of 40 scholars, a pupil-teacher was almost as matter of course engaged; it was found that in these same schools they often retained masters who had the very highest augmentation grants. It was found in addition to that, that where the capitation grant applied, as it did in England, they obtained that grant also for their small schools; and in the debates which took place about the time of introducing the Revised Code, the Vice-President of that day quoted many striking instances in which schools were obtaining from Government grants ranging from 20s. to 23s. or 24s. per scholar. Ralph R.W. Lingen.

Without, in your opinion, any adequate result arising in the education of the children?—Certainly; the difference between the efficiency of a school obtaining this very large grant per head, and another school obtaining perhaps only one third of the amount, would not necessarily be in the proportion of two to one.

Those were the general abuses on which the Commissioners reported, and which it was the object of the new system to rectify?—Those were some of the principal abuses.

In regard to Scotland, have you any facts which you can state as to how far the old system was or was not efficient?—The inspection having been conducted on precisely the same principles in Scotland as it was in England, whatever objections attached to inspection in England, we may reasonably suppose applied to it in Scotland.

Have the results of the new inspection brought out any facts that bear upon that matter?—The statistics of the inspection during 1864 have not been completed in Scotland. The accounts are only made up to the 31st December, and I have with me here no detailed result applicable to Scotland as to the Revised Code.[1]

In England, how have you found the Revised Code to work?—In England the result was exceedingly striking. It is so important that I think a reference ought to be made to the last report of the Committee of Council, p. xviii. to p. xxii. This, perhaps, is the most striking passage: "That the aggregate number of children who passed Standards 4, 5, and 6," that is, the three highest Standards, "was little more than one-fourth of the children who ought to have been able to pass Standard 6;" these Standards being confined strictly to elementary instruction of by no means an advanced order.

You mean that the result of the more strict examination under the Revised Code was to disclose that a very large proportion of those who ought to have been at Standard 6 of elementary instruction were far below it?—Yes. This was the result of taking the three highest Standards; that is, two Standards below Standard 6; the total number of children who passed under these three Standards, taken together, was little more than one-fourth of those who ought to have passed under the highest.

The deficiency is enormous?—Yes.

So that, in that respect, in your opinion, the Revised Code has proved the great deficiency in the operation of the educational system?—I don't think it would be quite fair to say that it has proved the deficiency in the system, but it has brought into very strong relief this fact, which the Royal Commissioners also dwelt upon, that the head class in a good elementary school got a good elementary education; but that the great majority of the children did not, as matter of fact, emerge into the head class.

And the education below that was defective?—The education below that was defective. I think it is necessary, in justice to the schoolmasters, to dwell upon this fact, that the causes of defective education may exist in the school, or may exist out of it. All that we have proved is this, that whether the causes were in the school, or whether they were out of it, the school itself was not giving a good elementary education to the majority of the children who passed through it. The evidence proves that that result was not being achieved.

You cannot as yet, I suppose, judge whether the additional stimulus given by

[1] See Appendix of Documents, F. No. I.

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the Revised Code will cure these defects?—My impression is, that it will produce a very great improvement. So far as the causes of these defects lie in the schools themselves, I believe it will go very far to remove them.

In regard to Scotland, you have not had the means of judging whether the defect exists, or whether it would be cured by the Revised Code: can you give us any general opinion as to how the Old Code has worked in Scotland?—Education in Scotland, so far as I am acquainted with it, differs from education in England chiefly in this respect, that a legal provision is made for it in the parish schools. With the exception of these schools, the basis of education is voluntary in Scotland, as it is in England. The working, therefore, of the system in Scotland will chiefly have been different in the parochial schools. In its application to the parochial schools, so much of the old system as related to pupil-teachers, did not differ much in Scotland from what it had been in England. If in any case the parochial schoolmaster had himself, out of his own pocket, maintained an assistant before, and the Government now maintained pupil-teachers for him, to that extent it was a relief to him. Of course, on these Scotch matters I speak subject to very great correction, and I can only state the conclusions which I have drawn from official papers. But I believe that when the parochial schoolmaster under the old system had received his statutory payment from the heritors, when he had made the best terms he could as to fees, and when he had got his dwelling-house and his schoolroom, he had to do for himself whatever else was to be done in the school, and that he had not much in the shape of subscription to calculate upon. The consequence was, I imagine, that in the old parochial schools, if you had found a deficiency anywhere, it would have been in the supply of stationery, in the supply of books, and in somewhat inconvenient furniture in the school; but for all these purposes, except out of the schoolmaster's own stipend, and what he might feel disposed to do for the credit of his establishment, no very assured fund was provided. The aid that came from the State did not touch these points of the material provision for the school,—the stationery, the books, and the apparatus. It provided assistants for the schoolmaster in the shape of pupil-teachers; it provided also for an addition to his salary, in the shape of the augmentation grant, but again, only on this condition, that the persons interested in the school would add to the stipend, which he had been previously receiving, a certain voluntary contribution; but when they had done so, that voluntary contribution and the augmentation grant all went into the pocket of the schoolmaster, and left the current expenses of the school still unprovided for. To that extent, I should say, the old system in Scotland, as applied to the parochial schools, really touched almost every point, excepting the one in which they had been principally deficient.

In regard to those schools not parochial, the working of them, I suppose, is substantially the same as in England?—Substantially it is.

The object of the Privy Council grants was to provide elementary education for the poorer or working classes?—Yes.

In Scotland, I suppose you are aware the parish schools are not necessarily confined to that class,—have you ever made any distinction in the grants on that subject?—Under the Revised Code the distinction is expressly drawn; but under the old system also, if we observed that the fees were unusually high, or at a rate which a labouring man could not fairly be expected to reach, we made inquiries as to whether the poor were really having access to these schools, and whether they had an equal share in their benefits when they entered them.

That is to say, if the fees were such as to exclude the poorer classes?—We should have ceased to aid the school.

But supposing the school were substantially for all classes in the parish, I presume your grants would not have been modified or altered by that fact?—We should, I think, at any time have gone so far as this,—inquiring whether the majority of the children in any given school belonged to that class for whom the Parliamentary grant was voted.

You have told us you require from the managers a proportional addition to the stipend of the schoolmaster: is it the case that in regard to the parish schools the difference between the minimum and the maximum rate imposed on the heritors is considered as a voluntary contribution?—Yes.

Have you ever found, or have you any reason to think that these regulations of

the Privy Council in regard to that matter are evaded by the managers?—We have had reason to think so in some cases. Ralph R. W. Lingen.

It has been suggested to us that such things have happened, as the master nominally subscribing a certain amount to the school, and then receiving back the amount in the shape of salary?—Such cases have happened.

And have come under your cognizance?—One certainly came under our cognizance. It was some years ago, and I am not sure that I could discover the case now.

You cannot state to what extent that may or may not have been the case?—I should think the cases of downright fraud are comparatively few; but those that may be said to have gone very near the wind, a good many.

Have you any suggestion to make in regard to education in Scotland generally, as relates to the difference between denominational grants like the Privy Council grants, and an extension of the parochial schools?—I am not prepared with any suggestion in detail; but I hold strongly this opinion, that Scotland has a much more excellent type in the parochial schools than anything that we have ever offered her.

Will you state shortly your grounds for that opinion?—I think it is an enormous matter to have established education, as you have established religion, at the time of the Reformation; and really to have secured, in theory at least, by law, the education of the people. Our system offers nothing equivalent to that.

Then, in regard to efficiency, would your experience lead you to prefer the extension of such a system, supposing it practicable, to any denominational grant under the existing Privy Council system?—Where I think the denominational system essentially fails, is not in the efficiency of the schools that are established, but in its uncertainty. It offers you no security for an equally diffused education; you have too much in one place, too little in another, none in a third.

Do you find practically that that is its result in England?—Undoubtedly.

And that in that way it fails to overtake the complete education of the people?—I believe myself that you never can unite really these three qualities: that education shall be voluntary, that it shall be efficient, and that it shall be universal.

Do you think that any material difficulty has arisen in administering the Privy Council grants by a board sitting in London,—do you find that the want of local knowledge hampers you?—Greatly.

Would it improve the system, do you think, to have a branch management, or any farther assistance in your office in London?—I should like to refer to the evidence which I gave before the Royal Commissioners in England, questions 438 to 449; and I would state generally that the result of that evidence was this, that the only local relief which I think can be given to a central board, is a local board invested with legal power and with legal responsibility. In England, we have simply in the country voluntary agents, and those not of a local character, but simply and merely representatives of each individual school. What we want in each neighbourhood is some one who represents the neighbourhood. To that extent, I think that local boards would be of the greatest assistance to a central one.

If you had, as managing the whole schools, such a body as the heritors, or a corresponding representative body, representing the locality, and entitled to act for them, you would consider that an advantage?—A great advantage.

As to any other central management, do you think it desirable, or the reverse?—I have always thought that the poor-law in England offered an excellent model of adjustment between local and central administration. The guardians in England dispose of the whole administration of the poor-law; but the manner in which they discharge that duty is inspected and reported upon by a central board; and it has always appeared to me that that type was applicable to education.

Then you find a great deficiency in having no authority in the localities who are entitled to represent them in the matter of education?—Quite so.

As regards Scotland, do you think your want of local knowledge could be made up by having a local authority established?—I think it would. If on the Committee of Council in London there were the Lord Advocate, *ex officio*, or if there were a committee in London, who, in any measure directly affecting Scotland,

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would be the Lord President's and Vice-President's advisers, I think that might be desirable.

Supposing that the present system of educational grants was given up in Scotland, and that means were formed to have a general system in extension or enlargement of the parochial system, depending upon local rates, and aided by Government grants, can you suggest in what way you think such a plan might be most efficiently carried out?—My impression is that some proportionate share in the sum annually voted might be assigned to education in Scotland; that the board of each parish or educational district might be responsible for the education within the district; that it might have, in proportion to its population, or its scholars, or whatever might be the unit of calculation, its share of the Scotch grant in aid of what it would have to raise itself; and that the right of inspection might belong to the central government, in virtue of the subvention which it afforded in aid of the local system.

And I understand you to say that, supposing that were practicable, it would, in your opinion, be a more efficient administration of these funds than that which obtains at present?—I hold that opinion most strongly.

Do you think that in England the effect of the Privy Council grants is to spend more money than you can expect to obtain adequate result for?—I don't think that exactly the weak point of the system; I think it is its partial application,—that assuming to have a national duty, it rests upon a basis which is not conterminous with the nation.

And cannot be made so?—No security can be taken for making it so.

How does the Revised Code stand as to Normal Schools?—The Normal Schools, under the old system, were supported by two classes of grants, one in the shape of bursaries, which were obtained by students on admission; and another, a payment which was made in consideration of their examination at the end of each year. These two grants, taken together, were found practically to pay the whole charge of the Normal Schools; very little indeed, if anything, remained to be done by voluntary effort in them; and the tendency of that system was to multiply the number of students far beyond those who it was reasonable to suppose could be wanted for the work of schoolmasters. These institutions were growing in reality into little universities, through which the pupil-teachers were passing to all sorts of other occupations, instead of those contemplated by Parliament. The change that was introduced with respect to these schools was this: the Government said, "We do not think it right, under a voluntary system, that we should be paying for the whole cost of anything; and therefore our grant to Normal Schools will be limited to three-fourths of the total cost, or 75 per cent.; and that will not be paid any longer as it used to be, in the shape of bursaries to young men entering these schools, who may or may not fulfil the duties that they were intended for, but a system of calculation will be adopted which will give you a certain payment upon each one of your students who, after going to the profession for which he was intended, in a school under inspection, and remaining two years in it, obtains the Government certificate after his probation." The change that was introduced, therefore, by that plan, threw upon the Normal Schools, when they admitted students, the *onus* of taking some reasonable security that they would at any rate begin their profession.

Are there any results that you can point to in the operation of the Revised Code, which have hitherto developed themselves with regard to the Normal Schools?—No; that system has only been recently introduced, and there has not been time yet for it to produce any results.

Do the same objections, as far as you know, apply to the administration of the Normal Schools in Scotland?—Much more strongly than in England.

Would you give the Commissioners the reasons which lead you to that opinion?—In England, the students are boarded in the Normal Schools; it is a collegiate system. In Scotland, the system is the same as that of your Universities. With very slight exceptions in the case of women, the students live out of school, and attend lectures on certain subjects. The consequence was, that whereas in England you had a practical limit to the numbers, in the size of the building, in Scotland you had none whatever; and any number of pupil-teachers, and a certain number of other candidates also, might obtain these grants upon examination, and without any sort of security that they were proportioned to the number who might be demanded for schoolmasters. It was the state of matters in Scotland

that brought the old system of grants to a crisis. In the year 1863, as compared with the year 1862, it was purposed to increase the number of candidates in training by as many as 135; after strong remonstrances from Government, the number was ultimately reduced; but that was, among other things, part of the data on which the new system was justified.

You mean that a large increase was proposed in one year?—It was. I have got the numbers here, and they are rather striking. The Established Church in Scotland, in the year 1862, was training 166 masters, and they proposed in 1863 to train 204, being an increase of 38; in 1862 they were training 107 mistresses, and they proposed in 1863 to train 161, being an increase of 54. The Free Church in 1862 was training 181 masters, and they proposed in 1863 to train 206, being an increase of 25; in 1862 they were training 115 schoolmistresses, and they proposed in 1863 to train 133, being an increase of 18; the total increase being 135; and I may mention that, in the face of that increase, our figures at the Council Office showed us that very little more than 61 per cent. of the masters who had been trained since these Normal Schools were established, and very little more than 50 per cent. of the mistresses who had been trained since these Normal Schools were established, were engaged in elementary schools under inspection, which really were the only schools, strictly speaking, for which they had been intended.

They may have followed out the profession, but not in schools under your inspection?—Yes.

And therefore to that extent the Government money did not go to support the Government system?—No. I may mention that the remonstrances about this increase in the number of teachers to be trained, led to some rather sharp correspondence, and a good deal of pamphleteering of one kind or other, wherein it was argued, in opposition to the Government, that the Normal training really was offered as a University career, as an encouragement to the more deserving pupil-teachers, and that it was unfair to apply to it arguments derived from the idea that they ought all to become schoolmasters and schoolmistresses in schools for the lower classes.

But you repudiated that view?—That view the Government most strongly repudiated.

Can you tell us the appropriation of the grant among the different denominations in Scotland?—It is given at page lxxi of the last Report of the Committee of Council on Education. I have not got the figures for 1864, but it is given there for 1863, and for every year from 1839. In 1863, the Established Church obtained £52,477; the Free Church, £39,897; the Episcopalian Church, £4,476; and Roman Catholic schools in Scotland, £2,230.

In the Established Church you include the sum given to parish schools?—Yes.

Can you give us the amount of grants applicable to the parish schools?—They are not distinguished here from the General Assembly and sessional schools.

Could you get that information for us?—Yes.[1]

In resolving to give a grant from the Privy Council funds, do you take into consideration the other means of education in the parish, or do you simply give it where your rules are complied with?—Where we are asked to build a new school, we make pretty strict inquiries as to the existing means of education in the parish. A grant for building a new school is prospective: no consideration is given for it at the time, excepting the land and the buildings; but the use to which these are to be turned depends upon the future. In making grants for the maintenance of schools, we do not ask any questions: we consider that if the school exists and is efficient, the consideration for the grant has been rendered, and that that *ipso facto* is a proof that the school is not unnecessary.

Have you had any instances in which the Privy Council grants have been abandoned in consequence of the closing of a school?—There have not been a very great number of these that have come under my own cognizance.

I have here a despatch by you to Mr. Cumin, in regard to the Free Church school at Fordyce: that school, I think, had a grant, and it has recently been closed?—It is so stated.[2]

[1] See Appendix of Documents, F. No. II.

[2] A subsequent case at Lochgoilhead in Argyleshire, has been communicated to the Royal Commissioners by the Committee of Council on Education. See Appendix F. No. VI.

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Will you explain what the case was, and what your view upon it was?—The school was built with the aid of a public grant of £69, in 1850. The promoters stated that at the time they had a population to provide for of 1500, chiefly employed as small crofters and labourers; they stated that there were two schools in the same district for the children of the labouring poor, one of which would hold 100 scholars, being the parish school in the same village, and the other of which would hold sixty scholars, being two miles off. They stated that there were at least 300 children in the district who ought to be at school; they owned that there were "twenty bursaries of small value given by Lord Seafield and other patrons to assist in educating boys of the name of Ogilvie, but these bursaries are generally held by boys not belonging to this district;" that the parish school was already crowded, having about twenty bursars "who do not generally belong to this district, and who, of course, deprive the children belonging to the district of school accommodation to a corresponding extent." They stated also, that the other school two miles off was built for the benefit of the fishing village of Sandend exclusively, and was at the very extremity of the parish, and distant four and even five miles from many of the children in the landward part of the parish. They further said, "It has been shown above, that out of a population of 1500, of whom at least 300 ought to be at school, there is only an average attendance of 100 at school, and that the parish school alone is accessible from its situation to the children in the district, and that is unable to receive more scholars." They also gave the following additional reasons:—"There is no *female* school in the district, the want of which is severely felt. There are upwards of 100 children belonging to the Free Church congregation *alone*, without taking into account those belonging to other denominations, who are unable to obtain accommodation in the parish school. Owing to the circumstances above stated, the Free Church congregation, about a year and a half ago, opened a school for the children belonging to the congregation, and for any others who might avail themselves of the means of instruction thus placed within their reach. Up to this date, however, your memorialists have been unable to obtain any suitable accommodation for the scholars or for their master. Your memorialists are therefore very desirous of erecting two schoolrooms, one for boys and one for girls, with a dwelling-house for the master and for the mistress. The only suitable locality for erecting a schoolhouse is in the village of Fordyce, as it is in the centre of the parish, and of the Free Church congregation; and consequently the schoolhouse, if erected in any other part of the district, would, like the school at Sandend, be quite out of the reach of many of the children for whom the school is intended to be built. It is not therefore from choice, but from absolute necessity, that the Free Church congregation intend to build their school beside their church, in the village of Fordyce, near the parish school. Your memorialists are unable to erect *suitable* premises unaided, as they are generally crofters and labourers." They state also that they intend to appoint a master and mistress, and to establish a daily school for boys, girls, and infants, and that they consider it practicable, and would endeavour to support the school in efficiency. That memorial is dated 1848; and upon that memorial the grant was given.

You got a communication from them recently, stating that all their efforts to keep up the school had failed, "owing to the number of schools in this village," and asking leave to discontinue it as being no longer necessary?—Yes.

Mr. Dunlop.—Have there been any new schools established in the interval?—We did not institute any inquiries; it was thought that possibly you might have means of investigating the case here better than we possessed in London.

The Chairman.—Have many instances occurred of schools being closed, and the grants in that way rendered unavailable?—Not a great many.

Mr. Dunlop.—Have you the means in the statistics before you, of telling us how the total sum appropriated to Scotland is apportioned to the different branches, such as augmentation of salaries, pupil-teachers, and other objects that you give grants for?—I have not; but I could easily give that information from London.[1]

The capitation grant to which you referred as existing in England was over and above, I understand, the same allowances that were made in Scotland without it?—It was.

Under your new system, the amount which you allow to any school will, I assume, depend upon the facts reported to you by your inspectors?—Yes.

[1] See Appendix of Documents, F. No. III.

You will not depend now, as you have hitherto done, on facts to be reported to you by the managers, at least not to the same extent?—The great difference, I think, is this, that previously the inspector's report was a general report upon the school, and if he was satisfied we sent down certain grants, that were appropriated to particular subjects in connexion with the school; at present, his report will not be only upon the general state of the school, but also upon the proficiency of the individual scholars who come under his examination, and our grant will arrive in a single sum. Ralph R.W. Lingen.

The amount of your grants depended upon the amount of local contribution reported to you by the managers?—That was only one among a great many other conditions on which they depended.

You stated that you had reason to believe that there was a good deal of sailing near the wind?—I spoke only of one particular class of grant, on the evidence that the master's salary was composed partly of voluntary contributions, and that where these did not exist before the Government grant came into question, the means by which they were to be raised gave occasion to a good deal of unsatisfactory practice.

Any necessity for inquiry into these will now be superseded?—It is entirely superseded. The master now would have no direct relations with the Government, but only with his employers.

You have some schools aided, both here and in England, which don't belong exclusively to one denomination?—Yes.

Will you inform us what the rules are by which you settle the constitutions of schools of that kind?—Every school which is aided by the Committee of Council must be one in which both religious and secular education is given; and upon the subject of religious education, it must be either a school in connexion with some recognised religious denomination, or it must be a school in which, besides the secular instruction, the Scriptures are read daily from the authorized version. The undenominational schools would all fall under the latter head.

What security is given to parents of children who object to specific religious instruction being given?—In England, in the great bulk of schools connected with the Established Church, no security whatever is given to the parents; no security whatever is given to the parents in Roman Catholic schools; but rarely do any children attend Roman Catholic schools except those of Roman Catholic parents. All the schools of Protestant Dissenters in England, in the charters under which they are established, give security that the parent shall not be obliged to have his child attending religious instruction to which he objects. In Scotland, a similar proviso is introduced into the feu-charters of Free Church schools. With reference to the schools connected with the Established Church in Scotland, the parish schools very rarely have any feu-charters at all; they appear to have been built upon land merely given for the purpose: we never have been able to find the title-deeds of any parochial school whatever in Scotland; and there is no proviso in the Parochial Schools Act which secures the right of the parents to have their children exempt from religious instruction; but I believe I am correct when I say that in practice religious instruction never is enforced in Scotland, and that the children who attend the Presbyterian schools are one and all exempt from any religious instruction to which their parents object.

Do you find much difficulty, when application is made for a school, in combining various denominations in settling the conditions on which their children shall be educated?—The most absolute impossibility of combining them by any rules which could be issued from London.

But has it been attempted in any particular schools in settling the terms of their grant?—Very often, and with uniform ill success.

You find all denominations averse to anything like a mixed system?—Anything like a mixed system upon the professedly denominational basis which the Privy Council are administering; anything like the union of congregation with congregation.

Mr. Davidson.—Does this refer to England?—I was speaking generally, but I had in my mind England at the moment more than Scotland.

Mr. Dunlop.—You don't remember any such attempts in Scotland?—I don't recollect any attempt of the kind in Scotland.

In framing the Revised Code, are you aware whether any consideration was

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given to the bearing that the rules might have upon the habits of the Scotch, created by our own existing parochial system, such as that of all classes in a parish, rich and poor, being taught together in the same school?—I don't think that the case of Scotland, so far as my recollection serves me, was specifically considered; but there is a class of schools in England exceedingly like those in Scotland in the mode of attendance,—the schools which belong to the Protestant Dissenters, where the union of classes is much greater than in the Church of England schools,—and with reference to them the question was considered; and one reason of the Revised Code was, that in these schools a considerable number of children were deriving benefit from the Government grants who belonged to parents that were perfectly well able to pay for their own education; and the system was framed with this view, that there should be nothing in it to oblige those children to be distinguished from others, either while they were under instruction in school, or while they were under examination by the inspector; but that when it came to paying the grant for the school, those children only should be taken into account by the Government who belonged to the classes for whom the Government grant was voted. I don't think that the case of Scotland was specially considered, but the corresponding case of a certain class of schools in England was considered; and it was not held that, with reference to them, the Revised Code imposed any exclusion from the schools of those children who had hitherto been benefited by them, nor any distinction of those children from the rest, for any purpose except that of Government payment.

Have you any schools in England which correspond to the schools which we have in our very destitute and large Highland parishes, where the great distance from the school might affect largely the attendance, and the amount that would be given in return?—I am not personally acquainted with those Highland districts, but from what I have heard, I should think the distances are very much greater than anything we have to contend with in England; but there are parts of England where the population is exceedingly scattered, for instance, in Herefordshire, where the population of the county is little above 120,000, and the parishes are exceedingly small; and in such parts of England great difficulty is experienced in maintaining schools under the present system.

Mr. Mitchell.—What plan do you adopt for ascertaining to what class the pupils belong to whom you give the grants under the Revised Code?—The children who are to be examined by the inspector must have attended 100 days; and the schoolmaster, when he receives notice of the inspector's visit, receives a printed schedule in which he is required to enter the names of those children, with certain other particulars as to age and attendance, whom the inspector will have to examine when he comes there; and he is directed, in a particular column of that schedule, to enter a notice of those children who belong to a class above that of the poor; and when this schedule comes to the Council Office, with the inspector's marks upon the success or failure of the children on examination, those children who belong to the class not supposed to be included within the grant are not paid for.

Mr. Cook.—I understand you to suggest that it would be an improvement on the present system of administering the grants in aid to schools in Scotland, that a proportion of the grant that was set apart for each parish or district should be administered by some local authority, instead of according to the present system?—Yes.

In speaking of the local authority, did you mean a local authority in each parish or district, or a subordinate board in Edinburgh?—I meant a local board in each parish or district.

Have you any opinion as to the manner in which that local board should be constituted?—Of course, I am speaking as an Englishman about Scotland; but the heritors' board appears to me to be the type of everything that is wanted. It represents the property on which the assessment for the schools is laid.

Do you contemplate that the local board should be left at liberty to administer the grant on the present denominational principle, or that they should be compelled, by Act of Parliament or otherwise, to attempt to introduce some general system?—My own opinion is that a local system is perfectly reconcilable with a denominational system; and, in answer to the question which was recently asked me, about the success or failure of any attempt on the part of the Privy Council to unite different denominations, I meant to speak of the uniting of different

denominations in the maintenance of the same school. But supposing there was a parish where there was at this moment a Free Church school and an Established Church school, I cannot at all see why both of these should not derive benefit from a common local board, remaining, the one an Established Church school, and the other a Free Church school. Ralph R. W. Lingen.

Lord Mure.—Have you had any cases before you in the Privy Council Committee, under the 19th section of the last Parochial School Act, with reference to the removal of schoolmasters on the report of inspectors?—We have.

Are there any cases where that has been done?—There have been some few cases.

What has been the course pursued under the Statute?—The course pursued has been this, to send the inspector down to examine into the efficiency of the master as a teacher, and then to furnish the heritors' board with a copy of his report, as one of the data on which they are to decide.

Has the inspector who has been employed to make this report been one of the ordinary inspectors for the district in which the school was?—Yes; the ordinary inspector.

Has it been thought necessary under the section to apply to the Privy Council for permission so to employ the inspector, or has he just been employed by the people in the district, knowing him to be the inspector for the district?—I am not able to say whether in every case they may have written first to London, but every inspector returns weekly an account of what he has been doing; and he would be expected, on receiving any requisition of that kind, to report it first to London, and to get authority to go to the school.

And having obtained that authority, is his report sent to the heritors?—A copy of it is sent to the heritors.

And another copy sent to London?—The original remains in London.

Is the copy that is sent to the heritors the copy as originally furnished by the inspector?—It certainly ought to be. There was one case which was mentioned, I think, before the Committee of the House of Commons last year, on the subject of inspectors' reports, in which the latter half of the inspector's report was in reality a judgment upon the matter. When the 19th section of the Act was first considered by the Committee of Council, it was held that the inspector's function was simply to furnish facts to the heritors' board, who would have to decide on these facts; and the latter part of the particular report to which I am now referring, having been, rightly or wrongly, considered to be judicial, was struck out. On attention being again called to the case, it was held to be of rather a mixed nature, consisting partly of fact and partly of judgment, and the rest of the report was communicated. But, speaking generally, and assuming that the inspector confined himself merely to ascertaining the efficiency or inefficiency of the master, his report would be communicated verbatim to the heritors.

Then I understand the board in London directed how the report was to be framed before it was sent to the heritors, for whom the report is to be made?—They merely tell the inspector, You are not to judge whether this man ought to be removed or not; your duty is merely to inform those who are the judges.

But in London they struck out what appeared to them to be the opinion of the inspector, without leaving it to the heritors to deal with that matter themselves?—They struck out from the report words which, in their judgment, were tantamount to saying, This master ought to be dismissed. For instance, supposing that the inspector were to say, Out of fifty children, forty could not read; and out of thirty, twenty could not write; and were to put at the end, "and therefore I think this master ought to be dismissed," the Committee of Council would consider that it was not his place to draw that conclusion. They would send down all the data, but they would consider that the last matter was for the judgment of the heritors, and not of the inspector.

But they did not leave it to the heritors to decide themselves upon the propriety or impropriety of what the inspector did in that respect?—Certainly not; the inspector is a servant of the Committee of Council.

Is there anything in the Act of Parliament which seems to limit the matter in that way?—It was carefully considered by the Vice-President at the time. The section is the 19th of 24 and 25 Vict. c. 107.—See Appendix of Documents, F, No. VII.

There is no power given to the Privy Council there to cut and carve upon the

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report of the inspector, is there?—The section does not say to whom the application is to be made; I can only tell you that the interpretation put upon that section by the heads of the Privy Council Office was, that it was their duty under it to place the services of their officer at the disposal of the heritors, not to resign their own power over him.

And at the same time to direct that officer how he was to prepare his report?—In general terms.

And on that impression the Privy Council have regulated the matter under the 19th section?—Yes.

So that, practically speaking, the heritors do not know the whole of a report that the inspector may make upon their employment?—They would know every fact that he had reported upon; but the sole point at issue is this—it was not held by the Committee of Council that the inspector is the judge. He was to place all the facts of the case before the heritors, and if the Privy Council withheld any of these facts which are within the purview of this section, on which the inspector had reported, they would do wrong; but if the inspector went on not only to report facts, but to pronounce a judgment, to that extent the Committee of Council would hold him to be wrong. They might send his report back to him, and tell him to excise it himself—they probably would, after what passed, last session; or they might, as they did in one case, take out what was superfluous in the report.

Can you mention the cases by name in which the reports were so dealt with?—No; I don't recollect them. It was only in one report that the case arose, and in that one, the remainder of the report was subsequently communicated.

You have had shown to you a statement as to what are called apprentice schools, under the direction of a board in Edinburgh?—Yes.

Can you inform the Commission as to how far schools so conducted are in a situation of obtaining any portion of the Privy Council grants, or not?—It appeared to me, from cursorily reading the paper before I came into this room, that those particular schools would not be within reach of the grant; but that it might be possible to bring them within reach of it on further explanation. The principle upon which evening schools are assisted out of the grant is this, that elementary schools may very well meet three times daily—in the morning, in the afternoon, and in the evening; and that it is not necessary that in the evening the scholars should be the same as those who attended in the morning or afternoon; that scholars who have left the school and wish to perfect their elementary education, might continue to attend the school as evening scholars, and that the establishment of teachers in the school might be made sufficient to manage three meetings instead of two. That, in general terms, is the principle on which the Committee of Council proposes to aid evening instruction. But where evening schools are founded as institutions practically independent of day schools, they are combined with so many other things, often most useful,—clubs, reading-rooms, coffee-rooms, etc., that they get over the border of elementary education, and belong to a part of that which men do for themselves, rather than trust to any one else to do for them.

If the suggestions which you now make were adopted, would it still be necessary to have a certificated teacher in these schools?—Every aided school must be under a certificated teacher.

And under the same system of inspection as other schools that participate in the grant?—Yes. At present the scholars of these schools would have to make some arrangement with the inspector to attend at the time when he visited the elementary day school in which the class was held. He probably would not be able, as a rule, to attend in the evening to inspect them.

Mr. Smith.—Would you give us a note of the sums given to schools under the Revised Code?—That is contained in Articles 40 to 53 of the Revised Code, and is, in short, this: 4s. per scholar is granted for the average number in attendance, and all those scholars who have attended more than 200 morning and afternoon meetings of their schools, that is, practically, who have attended 100 days, may obtain 8s. by examination, if they are more than six years of age; and may obtain 6s. 6d. without examination if they are under six years of age, and if the inspector reports in general terms of them, that they are instructed suitably, and in a manner not to interfere with the older children. That refers to day schools.

Then, evening scholars who have attended more than twenty-four meetings of the evening school, may obtain 5s., subject to examination, and a grant of 2s. 6d. per head is made according to the average number of them in attendance. Ralph R. W. Lingen.

Is there any particular period fixed at which the examinations shall take place?—That is fixed by Articles 16 and 17.

I suppose you have seen a variety of objections which have been made to the working of the Revised Code by various bodies, particularly the teachers?—Yes.

And that one objection they have is to the period at which the examination takes place, being at a time when they say there is a smaller attendance than at other periods of the year?—Undoubtedly that is a difficulty with regard to certain classes of schools. As far as the Committee of Council on education is able to meet that difficulty in the administration of Articles 16 and 17, they send notice to the inspector of every school as soon as an application from it is received, and request him to name in what month he will inspect it, and as far as he can he adjusts the time of his inspection to the time of year when the school is likely to be best attended. There are certain months, when the harvest is going on, when the rural schools are nearly empty, and if the inspection of any rural school does fall either at that time or just after it, no doubt that school is placed at a disadvantage. So far as arrangement can avoid that difficulty, it is avoided; but it is not wholly surmounted.

That is more a matter of arrangement by the inspector?—Yes; but so far as the evil can be got over, we endeavour to do so.

Your inspectors all belong to the different Churches whose schools they are to inspect?—Yes.

Approved of by the religious bodies to whom they belong?—Yes.

Have you found that to be an expensive mode of inspection?—In the Highlands and Hebrides it is certainly most costly. We send into that district four inspectors,—an Established Church inspector, a Free Church inspector, a Roman Catholic inspector, and an Episcopalian inspector; and what it costs to inspect some handful of Highland children, who belong to the Church that has fewest members, in some remote parish, I should be almost afraid to state.

Have you any memorandum showing the expense so incurred, with the number of children examined in the Highlands and Islands?—I could very easily select exceedingly strong cases from the diaries showing that; but I have no memorandum of them at present.

Mr. Dunlop.—Would you favour the Commission with that?—I shall have some of them looked up. It applies, of course, chiefly in the very remote Highland districts.[1]

But the fact of having four separate inspectors increases the cost everywhere?—It very greatly increases the cost. I may mention, with reference to such a case as that of Fordyce, that I advised the reference of it to this Commission, chiefly because I thought you might possibly send some officer of a neutral character to the spot; we have no neutral officer for any such inquiry. There is no such thing as the inspector of a district; he is inspector of a given class of schools in the district, and unless we were sending off a person from the office in London, I don't know to whom we could intrust such an inquiry.

Lord Polwarth.—Is the present system followed at the request of the denominations, or is it the system of the Privy Council?—The Privy Council, from its earliest institution, conceded what is practically a veto on the appointment of the inspectors to the different denominations.

Mr. Smith.—Since the operation of the Privy Council grants, have you observed in the reports which you have received from the inspectors, generally speaking, a marked improvement in the schools?—Undoubtedly the individual schools have been greatly improved. I entertain no doubt of that.

Of course, I am speaking of Scotland?—Generally speaking, in looking at a report it would not occur to me unless something called my attention to it, whether it was from Scotland or England; but I feel justified in saying, that in both parts of the kingdom the improvement of the individual schools has been both great and progressive.

Have you observed whether the effect of Government inspection by itself created an improvement, before grants were given?—Judging from the inspectors' reports, I should say not. The minutes of 1846 were in great measure justified upon the

[1] See Appendix of Documents. F. No. IV.

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reports of the inspectors, that up to that time they were able to point out defects, but not to point out any very material improvement.

So that in reality the grants were authorized in consequence of that system of inspection not creating such an improvement as was expected?—Yes.

You have not yet had an opportunity under the Revised Code of knowing how far the improvement in education has been material, in comparison with the working of the previous Code?—No. Where the previous Code—so far as our experience has gone—failed, was not in the instrument, but in the working of it. The school was well found, the teacher was competent, the influence of the school was good, but whether from causes within the school or without it, or from both together, a very large proportion of the children, it was quite evident, were not being thoroughly well taught.

But the Revised Code is intended for the purpose of endeavouring to correct these causes as far as they exist in the school?—Yes; it is directed to cure them so far as they exist in the school.

But you have not yet attempted any remedy with reference to those causes which existed out of the school?—No.

Have you had any application with a view of establishing a labour test as applicable to education throughout the country generally?—What are called the Factory Acts are legislation in that direction, and various extensions of them have been from time to time discussed, but no very serious proposal of a general labour test, I think, has ever been entertained. In the country it has always been considered that the enforcement of such a test would be exceedingly difficult, where employment is scattered over a very large surface.

In point of fact, the question, then, has been considered, but it has been thought inapplicable?—It has been considered, I should say, rather as a thing desirable than as a thing practicable.

Ragged schools, I think, are not now aided by Privy Council grants?—They are not admissible to aid unless they fulfil the same conditions as other schools.

Which, I believe, they cannot do?—The certificated teacher is one thing; and if they give food and clothing to the scholars, they are also excluded.

Is it in consequence of the food and clothing principally?—Both; but the actual exclusion of them has turned, I think, chiefly on the food and clothing.

Is there a great difference in the fees paid in the public schools in England and Scotland?—I think the fees are higher in Scotland than they are in England. If you compare them with those in the Established Church schools in England, they are very much higher in Scotland; if you compare them with the schools of the Protestant Dissenters in England, they are not so much higher. Of the scholars who were paying more than 2d. per week, the percentage in the Presbyterian Churches in Scotland is as much as 84 per cent.; but in England, if you take the Established Church only (which gives you four-fifths of the schools), it is only 58 per cent.

Mr. Dunlop.—That is, 2d. and upwards, is it?—Yes. The fees in the Established Church schools in Scotland are considerably higher than in those of the Free Church.

Mr. Smith.—When were the new rules adopted, which excluded the ragged schools from the Privy Council grants?—I think they must have come finally into force about the year 1862. A considerable length of notice was given of the withdrawal. There is a tolerably full history of the matter in the reports of the Committee of Council from year to year.

Were they made upon evidence in connexion with the English ragged schools alone?—No, certainly not; the whole class of schools was considered collectively.

I think you stated, with reference to the administration of the Privy Council grants generally, that they did not meet the wants of the country in all cases, and more particularly with reference to the poorer districts: have you ever considered any mode by which more elasticity could be given to the system, so as to enable these poorer districts to be better supplied?—The system fails, because it is voluntary, in reaching those districts where, from whatever circumstances, no effort is made; a great deal of consideration has been applied to the subject, how far, under the present system of aid, exceptional treatment in favour of the poorer districts could be adopted; but the Committee have not hitherto seen their way to making any distinction between one parish and another in the administration of the aid that they have to give. Whatever

attempt they have made in that direction, has always ended in the increased rate of aid becoming universal. Ralph R. W. Lingen.

Mr. Davidson.—With reference to the case which was mentioned, of the report by an inspector under the 19th section of the 24 and 25 Vict. cap. 107, where the Privy Council struck out what seemed to them to be a judicial sentence, I presume that proceeded upon the reading of the 19th section by the Privy Council?—Yes.

That it did not rest with their inspectors to give an opinion, but merely to state the facts of the case?—That was so.

Supposing the heritors of the parish had asked for a written opinion from the inspector, would the Privy Council have prevented that opinion from being given?—I think, according to the view that they took of the interpretation of that Act, and assuming that it is the right one, that they undoubtedly would.

Did you say that the heritors afterwards applied for the part of the report which had been struck out?—What occurred was this: the heritors, on receiving the inspector's report, made some communication to the inspector, which he assumed they would not have made if they had read the whole of his report; then a communication was made, either by him or by them, I forget which, to the Committee of Privy Council about the report. It was then looked to, and the portion which had not been sent, was upon further consideration communicated, seeing that it was more or less of a mixed character.

At their request?—At the request of the heritors, or because the Committee of Council thought it was matter which should go to them.

The Privy Council don't consider themselves entitled, do they, to interfere with the report of an inspector as to matters of fact?—Certainly not.

And it was simply because they thought that part of the report was an interference with the province of the heritors, that they kept it back?—That is so.

You mentioned that you thought it would be a great improvement, if the Lord Advocate, either alone or with some other person from Scotland, were added to the Privy Council board, with reference to Scotch matters?—Yes.

Do you think it would be better if there was some supervising board centralized in Edinburgh?—That really is a question which I have not sufficiently considered to give an opinion upon it. In the administration of a Parliamentary grant, there are some advantages in having a single source of authority.

You cannot give us any assistance as to how such a board might be constituted, if it were thought preferable to the plan of adding a Scotch official to the Privy Council Committee?—No. I don't think my opinion on that point would be good for anything. I am not sufficiently acquainted with the local matters on which my judgment ought to be formed.

Do you think that, instead of an inspector for Free Church and an inspector for Established Church schools in Scotland, there would be any difficulty practically in having one inspector for a district, to inspect all the denominational schools in it?—I can of course only refer to the history of the past. In 1839, the Government began by appointing its own inspector, who was to be a Government officer, and a Government officer only. The Church of England was quite strong enough to compel the Government of that day to accept the veto of the Archbishops on the appointment of such inspectors as were to visit Church of England schools. That point once conceded to one denomination, involved the concession of it to every other admitted under the denominational system; and whether at this moment, in any part of the country, you could undo that work, I should not like to hazard an opinion. I think there is nothing in a Free Church school, or an Established Church School, or a United Presbyterian school, which a single inspector would find different, so far as the religious instruction goes. Of course, in a Wesleyan school in England, or in a High Church school, the inspector would find a very different kind of instruction; but these great divergences don't exist in the Presbyterian schools of Scotland; and in the nature of the case, I should think there could be no reasonable difficulty; but it does not follow that the practical difficulty does not exist.

Has anything occurred in Scotland which shows that practically there would be a difficulty?—I can only judge from conversation which I have had with various people in London; and certainly of late years I should say that there has been a growing feeling among those I have spoken to on the subject of schools, that an effort in a general direction was feasible; but beyond that I have no knowledge.

Ralph R. W. Lingen.

Lord Belhaven.—I think you mentioned that some reference might be made to local boards: do you contemplate the institution of local boards?—I was thinking at the moment of the present heritors' boards.

What was the sum voted last year for education in Great Britain?—£705,404.

And of that Scotland received about one-seventh?—Yes.

Would you place the sum allowed at the disposal of the local board, or would you make that board responsible for it in any way?—I have not worked out in detail anything like a system; but speaking in general terms, my idea was rather this, that the local board might be made responsible for adequate education within its district, and that, with pretty considerable powers as to the application of the fund which it would have to raise itself, and the subvention it would receive from the public grant, it might apply the sum total in the provision of education generally, subject to inspection by Government inspectors.

You would make that board, of course, responsible to the Privy Council Committee?—Responsible in the same way that Boards of Guardians are in England. Any local board that has to receive public funds and expend them, will require a machinery of auditing accounts, which would be as easily adapted to the system of education as it is to many other public purposes.

Would you propose that a separate vote should be taken for Scotch education?—I think if you had a completely different system in Scotland from England, even if one estimate was presented to Parliament, the Scotch vote must be a separate one.

Lord Ardmillan.—I think you said that one effect of the Revised Code was to secure to all the pupils in the school a share in the education, instead of limiting it to the best scholars?—Yes.

I suppose you consider it to be a stimulus to an improved elementary education?—The great object of the Revised Code was to diffuse education. There was no fault found with the quality of it, but it was desirable to secure that more should get it.

Have you found it to operate at all to the lowering of the quality of it in regard to the higher branches of education?—Complaints to a certain extent have been made as to some of the higher subjects being abandoned; but as far as our experience has gone hitherto, the answer to be made is this: "as long as you show such a bad state of things in the purely elementary subjects, we may receive with a good deal of equanimity the complaints that the higher branches don't receive so much attention as they did."

But, viewing it as not applicable to a particular school where the elementary branches are neglected, but viewing it as applicable to the system generally, may it not be the case that where the great encouragement is given to the elementary instruction, there may be a little lowering of the higher instruction?—Every system, of course, has its own risks and dangers. That might be a consequence of the system after a time. I think we have to remember this, that the children with whom we have to deal are very young; that it really is not an easy matter to teach even the elements of reading, writing, and arithmetic thoroughly to a great number of children; and that until we can fairly say we have secured that the majority of those children, who go through our schools, leave them in possession of this knowledge, we are bound to face any other danger which may exist as to higher instruction.

You are probably aware that the parochial schools of Scotland have hitherto given an education of a very superior character to a limited number of pupils?—Yes.

There have been many men who received a first-class education in these schools; would it not be a pity if any new system tended to lower the teaching so as to deprive such men of their opportunities?—It would be a great loss indeed that they should not continue to have the same advantage as they have hitherto had; but they have many securities for it: in the *first* place, the schoolmaster himself naturally takes most pride in these scholars; and, *second*, they pay him best; but, after all, they are not the class whom Parliament feels an urgent necessity of providing with education. These men would no doubt still continue to provide education for themselves, as they did before the system of grants was introduced. Even if it could be proved that they would lose some of the particular advantages which they now enjoy, I think the application of greater care in seeing that the poor in these same schools receive the only education they have much chance of obtaining, is justifiable.

You are aware that there is now a system of examining persons who desire to be teachers, by the University Boards?—Yes.

Do you think the Privy Council would be disposed to accept a certificate of having passed that examination in lieu of the certificate that is given by the inspector?—The question has never been proposed to the Committee of Council; and of course I should not like to give any definite opinion as to what they might do; but supposing that adequate guarantees were given for this being really a searching and satisfactory examination, in which every one ought to have confidence, I can see no reason why, under the Revised Code, Government should not accept it.

Grants are given in England, I believe, to the Board of Guardians, for educational purposes?—That is rather a complicated matter; but the footing on which they are placed is this: the Poor-Law Board in its estimates every year presents an estimate for the schoolmasters in workhouse schools; they have a vote of about £30,000 a year for that purpose. Until 1863 the Poor-Law Board was supposed to have no adequate machinery for testing the proficiency of these masters; and from 1847 to 1863 a special class of officers attached to the education department used to examine the workhouse schools; their reports were forwarded to the Poor-Law Board, stating what salary they thought the particular masters whom they examined were deserving of. On these reports the Poor-Law Board paid the salary. A good many inconveniences arose from this plan of the officers of one board inspecting for another, and last year the inspectors who used to act under the Privy Council were simply transferred to the Poor-Law Board, and became officers of the Poor-Law Board. But no financial change arose on that; and the vote was still taken by the Poor-Law Board, the only difference being that the schools were now inspected by officers of their own.

We have no such grant in Scotland?—I believe not, but I am not sure. I should mention that this applies only to children within the workhouses, and under the orders of the Poor-Law Board, which only carry out certain Acts of Parliament. The guardians are responsible for the instruction of every child sent into a workhouse. The vote taken does not re-imburse them for the whole of that cost; it merely pays the salary of the schoolmaster. They have to maintain out of the rates the schoolroom, and to provide lodging and board for the schoolmaster, but his salary is a charge on the central fund.

Here the children are sent by the Poor-Law Boards to the parish school; and the parish schoolmaster is generally taken bound to teach a certain number of them at next to nothing?—There are various Acts in England which enable the guardians, if they choose, to send the children to school, and pay the fees for them; but that is not very largely taken advantage of in England. As a rule, every workhouse has its own school in it, maintained by the guardians.

Mr. Ramsay.—Could you furnish a copy of the instructions sent to your inspectors in cases where they are called on to examine schools under the 19th section of the Act?—Yes.[1]

Mr. Dunlop.—Supposing an inspector required to inspect and report upon a school, were, as part of his mode of ascertaining the state of the school, to require to see the teacher in the act of teaching, would his opinion as to his utter disqualification to teach a class, fall under the rule of the Privy Council, as a thing not to be communicated to the heritors?—I think the Committee of Council would expect the inspector to confine himself to reporting the facts that he observed, as, for instance, if he said the master spoke grossly bad grammar in speaking to the boys, or that when he wrote a sum on the black board he could not form the figures, or that he put down wrongly what he pronounced orally,—all these facts and incidents would be of course communicated; but I don't think the committee would consider that he ought to say anything in the nature of the judgment itself.

He would not be allowed to say that he showed an utter incapacity to teach the class?—Yes, I think he would be allowed to say that.

That he failed to give the lessons?—Yes.

The Chairman.—Are not the reports under that section entirely the same as the other reports?—We consider them entirely the same.

And there is nothing in them inconsistent with allowing them to be sent to the

[1] See Appendix of Documents, F. No. V.

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heritors?—It is quite incidentally that a question arose under that section. It was not regarded in the first instance by the Privy Council as matter of great importance, and the main intention was, that the inspector should not undertake to act as judge in his own person; which was the impression which the heritors seemed to have at first,—that he was to go down and dismiss the master.

Mr. Ramsay.—Do you approve of the system of appointing the teachers for life?—I think that entirely depends on whether you have a cheap and ready mode of removing them in case they fail to perform their duties.

Do you think we ought to have a cheap and ready mode of getting quit of inefficient teachers?—Certainly.

How would you judge of the inefficiency of a teacher other than in the way provided under that section?—I think this seems a very good method. The heritors are not bound to judge by the inspector's report only; but that is one of the data on which they may form their opinion.

Lord Mure.—The directions which the inspectors receive under the 19th section have reference to every school on which they may be called to report, whether it receives aid from the Privy Council or not?—Yes; my impression is that almost all the cases that occurred were schools which had not previously been under inspection.

The instructions to the inspectors had reference to any school on which they were called to report?—Yes.

Mr. Ramsay.—Assuming that under that section inefficient teachers are not easily got quit of, would you approve of some means by which they might be easily got quit of?—Yes; I don't think you could expect a gentleman like an inspector, who is quite a stranger, to take the whole responsibility of dismissing a teacher. I think the judgment ought always to be pronounced by some one else. The inspector should be the expert called in.

Lord Polwarth.—Independent of those who appoint him, or of those who have the management of the school?—I would not say of those who have the management of the school; I think it would be enough to say that they should not dismiss a master without calling in the inspector; and if, on the inspector's report, you gave an appeal to some one like the Sheriff, you would have every security for justice being done in the matter, and for getting rid of an inefficient man.

At present the inspector reports to the Privy Council?—Yes.

The Privy Council forwards his report to the heritors?—Yes.

And the heritors, along with the Presbytery, have a power on that report of dismissing him?—Yes.

The reporter is expected to confine himself to facts?—Yes; I think the instructions run in this way, not so much that he is to confine himself to fact, as that he is not to pronounce a judgment.

There must be some difficulty in making a report as to a man's competency, without expressing an opinion whether he is competent or incompetent?—I think an inspector, after a searching examination, can place the facts on record in a way which will leave no doubt on the minds of those who have to draw the conclusion.

The Chairman.—I understand an experiment has been tried in England in regard to itinerating schoolmasters in remote districts?—Yes, one.

How has that succeeded?—It is scarcely three weeks old, and the only point at present conceded is, that the time an itinerating master is employed in that way shall reckon towards the revision of his certificate, but no grants have been issued upon it.

Lord Polwarth.—Do these itinerating schoolmasters belong to the national schools?—The experiment is strictly denominational, like the rest: a group of five schools, for instance, are united under the supervision of a schoolmaster, who might be the master of any of these schools himself, so far as denomination goes.

And he wanders from the one to the other?—Yes.

Might not something of the same sort be applicable to the northern districts?—Supposing that the experiment succeeds in England, I should think it would be applicable to any district where schools were small or scattered. The question is under the consideration of the Privy Council, whether they will do more, and something is sure to be heard of the subject before long.

Mr. Ramsay.—Are the school buildings required to be of the same character under the Revised Code as they were under the Old Code?—No change has been made under the Code with reference to the buildings.

Have you ever considered the difficulty that arises in the Highland districts in providing schoolhouses suited to your requirements?—As long as the Committee of the Privy Council are not called on to build the school, they accept almost any building that answers the conditions of space, and light, and air. If the Committee were likely to be called on to build new schools, and this was part of a scheme to relieve outlying parishes, it would naturally come under consideration whether some different building should not be accepted. Ralph R. W. Lingen.

I put my question rather with reference to existing buildings: would it not be expedient in these districts to give the benefit of your allowance to teachers who are conducting their operations in schools that do not suit your requirements?—The only condition as to buildings under the Revised Code, if annual grants alone are in question, is, that the school must be a building certified by the inspector to be properly lighted, drained, and ventilated, supplied with offices, and containing in the principal schoolroom at least eighty cubical feet of internal space for each child in average attendance.

Is the inspector at liberty to certify a school which has not a boarded floor?—Yes; the inspector is at full liberty to certify it. Some years ago the question of floors was more agitated than it is now; but the present rule is, that, if the inspector can certify that the room is properly lighted, drained, and ventilated, then a grant is made.

Saturday, 21st January 1865.

LORD JERVISWOODE IN THE CHAIR.

M. S. TAIT, Esq.,—*examined.*

The Chairman.—You are superintendent to the Trustees of the Ferguson Bequest Fund?—I am. M. S. Tait.

In consequence of the position which you hold, have you become acquainted with the state of education in Scotland, or does your knowledge of it refer to a particular district?—While I possess general information in regard to schools in many parts of Scotland, the statements which I am about to make refer wholly to the state of education in the counties of Ayr, Wigton, Lanark, Renfrew, and Dumbarton, and the stewartry of Kirkcudbright, being the district specially under the operation of the Ferguson Bequest Fund.

Can you state the population of these counties?—According to the census of 1861, it was 1,144,722, or upwards of one-third of the whole population of Scotland.

How many public schools are there in these counties?—The information which I possess as to these is founded on the census returns of 1851. The number then was 751, all being day schools. The number now may be about 800.

Of the same class?—Yes.

Aid is communicated to schools in these counties from the Ferguson Bequest?—Yes. The Bequest has many objects, and I have here an outline of the scheme.

How many schools are at present receiving aid from the fund?—307 schools were applied for last year, and their circumstances were inquired into by me; of these, 284 received aid to a greater or less extent. Many of these schools have more than one teacher; and all are public, not adventure schools.

Do you know how many of the schools which are receiving aid from your fund are under Government inspection?—Of the 284 schools aided last year, 143 are under Government inspection, and 141 are not so inspected. Of the former class, 24 are in Glasgow, Greenock, and Paisley, and 119 elsewhere; of the latter class, 34 are in Glasgow, Greenock, and Paisley, and 107 elsewhere.

Are these 141 schools additional to the parochial schools?—I believe I am correct in stating that all these 141 schools are additional to parochial schools and others under the operation of the Privy Council system.

M. S. Tait.

What proportion do they bear to the whole schools in the district?—Presuming that there are 800 schools in the district, the schools in question number about 17½ per cent. of the whole.

Can you state what religious denominations the schools aided from the Trust belong to?—104 belong to the Established Church; 74 to the Free Church; 26 to the United Presbyterian Church; 4 to the Reformed Presbyterian Church; 2 to the Congregational Union or Independent; and 74 are undenominational, or rather they are under the management jointly of members of the before-mentioned Churches.

Do you know to what denominations the schools not under Government inspection belong?—55 belong to the Established Church; 19 to the Free Church; 22 to the United Presbyterian Church; 3 to the Reformed Presbyterian Church; 2 to the Congregational Union or Independent; and 40 are undenominational, in the sense I have mentioned.

Is there any material difference in regard to the character of the education given in the schools aided by the Ferguson Trust?—The larger schools command better teachers, but there is little difference in regard to the branches taught. I find that of the whole number (284), the elementary branches (the three R's) *only* are taught in 177 schools; and that, in addition to the elementary branches, Latin, or Latin and Greek, or either or both of these, with Mathematics or French, is taught in 107 schools. Sewing is now very generally taught in these schools, and I may add, that the Bible and Assembly's Catechism are taught in all the 284.

Do you insist upon any peculiar heads of education being given in the schools?—No; we just take them as we find them. It is more the character of the education that we look to.

Do you find any difference in regard to the education given in the undenominational or joint schools, as compared with the denominational schools?—I cannot say that I have found any difference to the disadvantage of the joint schools. Of the 74 on our list, 34 are under Government inspection. In regard to the other 40, I find that the elementary branches *only* are taught in 27 schools, and classics, etc., in 13 schools.

How are the managers of these 74 joint schools elected?—Usually by the subscribers to the school funds, from among their own number.

Have you any knowledge of the class of persons that are generally elected?—It depends upon the locality generally: in rural districts, farmers are chosen; in smaller villages, probably tradesmen, along with a few farmers.

Have you found these committees to work well and harmoniously?—I have found that these committees work well and harmoniously. The exceptions are very few indeed.

What is your experience in regard to school management in general?—On entering upon the duties of my office, I found that denominational schools, for the most part, especially in the country, were left very much in the hands of one person, and consequently, that there was need for a greater interest being taken in these schools. I do not impute any blame to the clergy, but I may say it was the clergyman that I found principally in charge of the school.

Do you mean the parish clergyman?—The Established Church or the Free Church clergyman. I speak of the denominational schools. In order to remedy this, it was required that all applications to the Bequest Fund should be signed by three persons, who are expected to be laymen, with a view to enlist this class in the cause of education, presuming that the interest of ministers was already secured. The result has been that probably 1000 persons have been led to take an active interest in these schools. In the undenominational, or joint schools, I generally found the management more efficient. The committees are usually larger, and most of the members seem to discharge their duties conscientiously.

Lord Polwarth.—What do you mean by undenominational?—Those not connected with any one religious body. The committee of management is composed of persons of various religious bodies.

Sir J. Fergusson.—In the case of such a school, who is the visiting body?—Of the whole 284 schools that received aid last year, 104 belonged to the Established Church.

The Chairman.—And you call these denominational?—Yes; 74 belonged to the Free Church, 26 to the United Presbyterian Church, 4 to the Reformed

Presbyterian, 2 to the Congregational Union,—these are denominational; and 74 are undenominational. M. S. Tait.

Sir J. Fergusson.—What is the visiting body in the last class of schools?—The committees simply request the ministers in the neighbourhood to visit at the time of the annual examination.

Lord Polwarth.—What are the 74 schools?—Schools managed jointly. Suppose a school has been erected in a village, and the managers are chosen by the people, the managers must be members of the Churches I have named, but there may be three of each or one of each.

Then they are subscription schools aided by the Ferguson Bequest?—That is the popular name, only the managers must belong to the Churches to which we give aid.

That is a rule you make?—No; the trust-deed defines it so.

They are subscription schools not belonging to any particular denomination?—Yes.

But composed of all these five denominations?—Yes.

The Chairman.—Those you call denominational are directly connected with a particular Church?—Yes.

How many children may be in attendance at the schools connected with your Trust?—The number of children enrolled during 1864 was 29,642; the average attendance, 23,837.

What proportion may that bear to the whole number of children educated in public schools within the six counties referred to?—I estimate the number of children receiving education in *public* day schools in these counties at 100,000 to 120,000, the proportion of these enrolled in schools connected with the Bequest Fund Trust is from 25 to 30 per cent. of the whole.

The next head of examination is: Whether the Privy Council system of grants in aid tends to the establishment of schools in localities where they are not required for the educational wants of the district?—I take the liberty of remarking, in regard to this question, that an answer would be best obtained by a special inquiry. Her Majesty's inspectors visit only the schools on their lists respectively, and I visit only those for which application is made to the Trust, and thus, in common with these gentlemen, I have not the direct means of obtaining information in regard to this point. I may state generally that, if the question refers to the tendency of the Privy Council grants to support or maintain schools in localities where they are not required, I am of opinion that the system has this tendency. This opinion is founded on the fact of two or more schools aided by Government, existing in the same locality, and the attendance at one or other being very low. This may result from the present system of aiding denominational schools. I do not speak of it as absolutely an evil; it may keep up a healthy rivalry, but it increases the expense, and tends to beggar the teachers, and ought, if possible, to be avoided. Sometimes a female school is supported, through Government aid, in a locality where, in other Government supported schools, sewing is required to be taught. This also has the tendency of reducing the attendance at each school, and reducing too the teachers' emoluments. These remarks are quite general, and find illustration in several localities in the sphere of the Bequest.

Does the Privy Council give any aid to the schools to which the Ferguson Bequest applies?—Yes, to 143 of the 284.

Can you state any instances in which the schools have been over-multiplied by the influences of the Privy Council grants?—I only take up certain statistics, and the only cases of that sort which occur to me are Dundrennan, a village with a population of 200, in the parish of Rerrick, which has a population of 1700; in that village there are two schools both aided by Government, the parochial school and a Free Church school; in the one I found 40 children in attendance, and I was informed that in the other there were just 20. Then there is the village of Barr, in Ayrshire, where there is a parish school fit to contain all the children in the parish, and there is a Free Church school, and both are aided by Government. I have to do only with the Free Church school, and there were 40 in it. The other had as many.

Are the schools close together?—They are not two minutes' walk from each other. Then I would mention Barrhill, where there is a Free Church school, aided by Government, with two departments, and an Established Church school

M. S. Tait. within a hundred yards of it; the attendance in the latter is 33, and in the former I don't think it is above 60, but it is capable of containing fully 33 more.

Sir J. Fergusson.—Is it within your knowledge that the reason of the competing schools at Barrhill is, that the Free Church school got Government aid, and then it was thought fair that the parish school should get Government aid also, as soon as it complied with the conditions?—I don't know what the reasons were. I should like to bring before the Commission the subject of the Government aiding female schools, at the same time requiring female teaching in all the other schools. I have two instances of that in my mind,—one is Kilbirnie; the accommodation of the parish school has been added to recently by the heritors, and it is quite ample for all the females that are in the other school, to the building of which aid has been given by Government. I would say the same as to West Kilbride. These cases are examples of the addition of female schools where there is ample accommodation in the other schools for females being taught.

The Chairman.—Do you consider that the Privy Council system overtakes, or is calculated to overtake, Highland and remote districts?—I am of opinion that the Privy Council system does not overtake, and is not calculated to overtake, Highland and remote districts. In the first place, its requirement as to building operations are unsuitable and too expensive for sparsely populated districts. Secondly, in these districts it is found impossible to raise the sum on which the teachers' grants have hitherto been contingent. Under the Revised Code, I fear that the smallness and irregularity of attendance would make the teachers' Government aid only nominal. Many of the particulars which I have submitted refer to schools in remote localities, and are instances of the statement now made. The same remarks apply, so far, to populous districts in towns. In regard to building aid, the high price of ground, taken in connexion with the requirements of Government, makes it almost impossible to take advantage of the Privy Council aid. Then, in regard to teachers' grants, in many cases the school premises are such as to exclude the school, on account of the requirements, from Government aid. As instances, I would refer to many of the places which I have to do with. There is a school in Norfolk Lane, Glasgow; the premises are not such as Government will accept; the teacher has a certificate, but gets no benefit from it. They cannot get ground in the neighbourhood, and he has to teach on without Government aid or Government inspection. As an illustration of the fact that Government will not aid in building a school in a large town without all their requirements as to space, playground, etc., being complied with, I may mention Anderston Free Church school. They had only the space behind the Church, and Government would not give them a penny.

Do you consider the present system of grants in aid is denominational, in the sense of confining the education in the schools to children belonging to the denomination to which the school may be attached?—In regard to the schools I have to do with, and I should say in regard to all Presbyterian schools in Scotland, the system is not denominational, in the sense referred to. But I do not think that this remark can apply to Roman Catholic, and probably to Episcopal schools in Scotland. I regard the separation of schools denominationally as most objectionable. The system, while it adds materially to the cost of education, in many ways retards its progress. I have already referred to the effect this system has in reducing the income of teachers by dividing the attendance of scholars, and hindering the higher education. But there is an aspect of the subject which I beg to bring before you, namely, the effect of the system upon the character of teachers. It is well known that in the Normal schools both of the Established Church and the Free Church, students of various denominations are trained as teachers. While yet they are in training, nothing is heard about the Church connexion of these young persons, their educational merits only are recognised. But when their studies are completed, they find that not merit and attainments, but denominationalism comes into requisition. In all the schools of these two great Churches, the peculiar tenets of the denomination must be professed before a teacher is engaged. The consequence is, that many teachers are tempted or constrained, for their very livelihood, to change from one denomination to another, and thus the persons to whom we commit the education of our children are subjected to a demoralizing influence. It may be said that the denominational distinctions are very trifling,—a statement that might be made in behalf of the abolition of a Church test altogether, but that cannot surely be used to

justify the course referred to. While yet these Church distinctions exist, they ought to be respected in the schoolmaster or schoolmistress and the minister alike, and I cannot but regard the constraint to change, in order to gain a living, otherwise than as fitted to exert an unhappy influence on the teaching mind of our country. I speak of this as a fact, and do not impute blame to either of the Churches referred to. It is simply a fault of the system in question. M. S. Tait.

In your opinion, could any other plan of a more uniform and national character, based upon an extension of the existing parochial system, or otherwise, and better fitted to overtake the educational wants of the country, be substituted for the Privy Council grants?—Any plan to be suggested ought, in accordance with the question, to be uniform and national in its character, and fitted to overtake the educational wants of the country. The parochial schools of Scotland have, to a large extent, answered to this character, and accomplished this end. But the country has outgrown them. The main features of the parochial system however, in my opinion, ought to be kept in view in framing a new educational measure. Those features may be described as—(1.) providing for the wants of a given district or parish; (2.) providing education for all of every class of society within the parish; (3.) providing the religious as well as the intellectual part of education. The following, among other changes in the circumstances of the country, require to be kept in view in any endeavour to remodel and continue the parochial system—(1.) the population now clusters more in and around large towns, thus leaving many parts of the country thinly peopled; (2.) the proportions of the rural and commercial pursuits of the people have changed, the commercial greatly outnumbering the rural. Under the term *commercial* I include the trading, manufacturing, and mining population. Keeping these things in view, I beg to offer the following suggestions: —(1.) An extension of the parochial school system, so as to provide for the educational wants of the country in its altered circumstances, preserving the high character of the education. (2.) That a similar system be adopted in large towns, so as to carry out the original idea of the burgh school, which sought to provide for towns an education similar in character to the parochial, but adapted to the requirements of the town. By these general proposals the change in rural districts would be little, except that the wants of districts where the population is small would be better attended to than at present. As to towns, the education that is at present provided by classification under one roof might be given in two kinds of schools, a higher and a lower, to meet the wants of the large number of children of the working classes, and yet to bring the higher branches within the reach of the poorest child. In respect to management, I beg to suggest that the parish schools be under the management jointly of a committee chosen by the heritors (liable for school salary, etc.) and the ratepayers, the one class of persons being distinct from the other, together with a minister of each of the denominations within the parish having charge of a congregation within said parish. That the burgh or town schools be under the management of town-councils, and of the commissioners for public purposes in those towns that have no regular magistrates, together with a minister of each of the denominations within the burgh or town having charge of a congregation within the same. In respect to control, I beg to suggest that there should be a central board, whose duties would include the sanctioning of all regulations for schools proposed by the managers of the parochial schools, and of the burgh or town schools, and the receiving and disposing of appeals and references from the managers or from teachers. In my opinion, it is not necessary that provision should be made by Parliament for religious instruction in the schools, but that this matter should be left wholly in the hands of the local managers, the more especially as the religious convictions of the country would be fairly represented in the committees. I may be allowed to add, that in my opinion, a double visit of inspection in course of the year would be of advantage in the larger schools. In regard to ways and means, I am of opinion that—(1.) the existing claims on heritors in respect to education should be available; (2.) that all educational mortifications of a general kind in Scotland should be appropriated to the purpose in question; (3.) that fees, according to a fixed scale, be exigible in all the schools, leaving a discretionary power with local managers to admit the children of the working class free, or at a nominal rate; (4.) that an annual grant from Parliament, in some proportion to the aid so given in England and Ireland, be distributed under direction of the Scottish central board; (5.) that a local rate be imposed as necessity may require. I think that under any national system,

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provision should be made for the more frequent inspection of the schools by Her Majesty's inspectors; and that the educational test should be enforced upon the employers of children under a given age.

Have you considered the effect of the difference between the Old and the New Code?—I am of opinion that the operation of the Privy Council system has had a most beneficial effect on the education of Scotland, although, from the separation of schools denominationally, it has not had a fair trial. The existence of denominational schools, by lessening the attendance at each, prevents that classification which is necessary to the proper on-carrying of the higher branches. I know of several instances in which the higher branches were not taught, simply on account of so few pupils offering. And it not unfrequently happens, that in one locality there are two schools, each with an attendance of say sixty children, and in each of which Latin is taught to two or three boys. My attention, in accordance with the instructions of the Bequest trustees, has been confined to elementary education in the schools visited and inspected by me. It is in regard to this alone, therefore, that I can speak. The existing Privy Council system seems to me to differ from the Revised Code in these respects—(1.) The existing system recognises and rewards the teachers' attainments; the Revised Code, the work actually done. (2.) The existing system encourages the teaching of the higher branches in common with the elementary; the Revised Code, as aiming to benefit the working class alone, by paying only for labour bestowed on that class, tends to discourage the higher teaching. I am of opinion, therefore, that the effect of the Revised Code would be to change the character of the schools entirely. It would discourage the teaching of the higher branches of education. It would interfere with the training of teachers in Normal Schools, by weakening the motive for acquiring the higher learning. Nor would it improve the elementary education in general, but only so far as the children of the working class are concerned.

Does your experience lead you to think favourably of the inspection of schools by Her Majesty's inspectors?—I regard the inspection of schools by Her Majesty's inspectors as most important. My experience in regard to this is wholly confined to the sphere of the Bequest operation. Other examinations, so called, are in my opinion not to be compared to it. These inspections are conducted by gentlemen of education and fitness for the duty. It is the work of their life, and ought to have results. And besides, they are respected and trusted by the teachers, on whom they have an influence which is peculiar, and in my opinion, beneficial. With the sanction of the Bequest trustees, I have endeavoured to bring as many as possible of the schools in our sphere under Government inspection.

What is the average income of the teachers in the schools connected with the Ferguson Bequest?—The schools are divided into two classes, viz., town and country, the towns being Glasgow, Greenock, and Paisley; and I find that the average salary of the male teachers in the town schools is £88, and of female teachers £50; while in country schools, the average salary of male teachers is £61, and of female teachers, £45. That is the whole income, including fees and everything, and it refers to the salaries of the whole 284 schools I have mentioned.

Lord Polwarth.—Does it include houses?—I have not taken houses into account. Some of them have houses and some not. We do not aid in building houses, and therefore I don't take cognizance of that. I only speak of the money received by them.

You give their income?—Yes; what they receive in cash.

You are aware that the parochial schoolmasters have houses?—I am speaking of those who receive aid from us, and none of them are parochial.

Are none of the 284 which you spoke of parochial schools?—Some of them are Established Church, but not parochial.

Are these what are termed sessional schools?—I believe some may be called sessional; others of them have been erected by private means, and put under the control of the parish clergyman.

The Chairman.—You do not give aid to proper parochial schools?—No; they are excepted by the trust-deed.

Lord Polwarth.—May not a great many of these schools come to an end by the funds ceasing?—Many of the Free Church schools exist without a penny from private funds, the fees being ample; they are likely to be as permanent as any schools in Scotland.

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The Chairman.—Can you state the average income of the teachers of the 143 schools which you mentioned?—In the 143 schools under Government inspection, I find that there are 63 male principal teachers receiving aid from the fund, and 38 female principal teachers. Of the former, 12 are in the town schools and 51 in the country; of the latter, 13 in towns and 25 in the country. Take the male teachers by themselves, I find that the gross income of the 12 in towns is £1111, or £92, 11s. 8d. each on an average. The gross income of the 51 in the country schools is £4076, or, on an average, £79, 18s. 5d. each. Take next the female teachers: the gross income of the 13 in towns is £793, or an average of £61 each; the gross income of the 25 in country schools is £1294, or, on an average, £51, 15s. 2d. each.

You speak of money payment there also?—Yes.

Can you give any information as to the sources from which these incomes are derived?—Keeping in view the same distinctions, viz., male teachers in town and country, and female teachers in town and country, I find that the constituent proportions of the average incomes are as follows:—Taking the towns first, the male teachers have on an average—from fees, £43, 18s. 4d.; salary, £18, 16s. 8d.; Government aid, £21, 10s.; Ferguson Bequest Fund, £8, 6s. 8d.; total, £92, 11s. 8d.; and the female teachers, on an average—from fees, £30, 4s. 7d.; salary, £6, 18s. 6d.; Government aid, £16, 18s. 5d.; Ferguson Bequest Fund, £6, 18s. 6d.; total, £61. In the country, the male teachers have, on an average—from fees, £34, 1s. 2d.; salary, £16, 16s. 5d.; Government aid, £20, 13s. 5d.; Ferguson Bequest Fund, £8, 7s. 5d.; total, £79, 18s. 5d.; and the female teachers—from fees, £18; salary, £11, 18s. 5d.; Government aid, £13, 19s. 2d.; Ferguson Bequest Fund, £7, 17s. 7d.; total, £51, 15s. 2d.

What is the average income of the teachers of those schools which are not under Government inspection, or receiving Government aid for the teachers?—Of 123 male teachers in such schools, 21 are in town and 102 in the country; the average income of town teachers is £78, 16s. 2d.; and of country teachers, £48, 6s. 6d. Of 37 female teachers, 14 are in town and 23 in country schools; the average income of town teachers is £49, 2s. 10d., and of country teachers, £35, 6s. 1d. In the town schools, the difference between the income of a male certificated teacher and an uncertificated teacher is £13, 15s. 6d., and of a female certificated and uncertificated teacher, £11, 17s. 2d.; in the country, the difference between a male certificated and uncertificated teacher is £13, 11s. 11d., and between a female certificated and uncertificated teacher, £16, 9s. 1d. The inference I draw from the statement I have just made is, that without Government aid competent teachers cannot be properly maintained, especially in the country schools.

Lord Polwarth.—You mean in those schools that are not parochial?—I am only speaking of that class.

The Chairman.—You mean that they cannot be maintained without some endowment?—Yes, endowment or extraneous aid.

Can you give us any information as to the cost of education in the schools connected with your Trust?—Taking the average attendance of 23,837 as the basis of the calculation, I find that the education of 8203 children, in average attendance upon the schools in Glasgow, Greenock, and Paisley, costs £5276, or 12s. 10d. each child; and that the education of 15,634 children, in average attendance upon the schools elsewhere, costs £14,354, or 18s. 5d. each child per annum.

What proportion of that cost is derived from fees?—The proportion of the cost derived from fees is, in town schools, 6s. 10d. each child, and in country schools 8s. 8d. each child per annum. The average rate of fees reported as chargeable in the 284 schools referred to is 2s. 11d. per quarter, or 11s. 8d. for each child per annum.

That is over the whole, male and female?—Yes; I had not the means of separating them.

Lord Belhaven.—Is it the same in the town and in the country?—I had leisure only to take all the schools and average the fees chargeable in all.

Lord Polwarth.—You cannot give us the fees in the town and in the country?—The fees chargeable in the town schools average 9s. 4d. each child, in the country schools, 11s. 4d. each child per annum. The fees actually paid, however, average 6s. 10d. and 8s. 8d. respectively.

The Chairman.—How are the fees payable?—In the country, they are most frequently paid quarterly, in towns, weekly or monthly: the teachers try to get

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Lord Belhaven.—Can you give any reason for the rate being so much higher in the country than in towns?—The schools are much larger in towns, and in many the fees are very low to induce attendance. I think they are far too large. One teacher may have the control of 150 or 200 children, while in the country there are usually only about sixty.

Lord Polwarth.—Do those fees apply to the elementary branches of education solely?—I have given an average of the whole schools; and many of them teach the classics, French, and mathematics.

For the fee you have mentioned?—Yes; I have here a statement of the fees.

In how many schools is French taught?—Twenty-six.

The Chairman.—What are the fees?—The highest is 7s. per quarter—two schools charge 7s., seven charge 6s., twenty-nine charge 5s., twenty-five charge 4s. 6d., fifty-three charge 4s., and all the others are lower than 4s. a quarter; the average fee is 2s. 11d. a quarter.

Do you find the teachers generally of good character, and diligent in their school duties?—I am glad to be able to speak most favourably of the character and diligence of the teachers of the schools under my inspection. The exceptions are so few, that I can only say there are exceptions. Before any teacher is recommended for aid, I spare no pains in making inquiries as to his or her character, and in every instance I am satisfied on this point before I recommend them to the trustees of the Fund. Judging from my knowledge of the teachers with whom my duties have brought me into contact, I have a very high opinion of them indeed, as a body. I invariably trust them, deal frankly with them, do what I can to encourage them, and I seek to induce school managers to act so by them also. This leads me to remark that I think the cause of education would be promoted by the opinions of teachers being more consulted. Considering the character and attainments of many of them, I think their voice is not heard as it ought to be in the matter of their profession. And I am of opinion that if any central board were constituted to superintend the general education of the country, provision should be made for the effective representation in it of the views, feelings, and interests of the teaching profession.

Do you approve of the appointment of teachers *ad vitam aut culpam*?—The previous small incomes of teachers, and the fact that as life advances their fitness for the duties of the school decreases, may have rendered such appointments expedient. But if proper remuneration is given to a teacher, so as to enable him to "provide against a rainy day," I cannot see how he should be placed on a different footing from the great mass of employees in the country. Such an engagement will not affect the diligent and conscientious teacher; but it is calculated to have an injurious effect upon the careless and the indolent, upon the man who ought not to be a teacher at all. I presume, of course, that some provision would be made for a retiring allowance.

Do you consider that teachers should be confined strictly to their duties as teachers, or that they should be allowed to engage in other employments?—The teachers that I have had to do with are, so far as known to me, wholly of those whose remunerated duties are confined to their schools. I have heard, however, of teachers acting as public registrars, as clerks and collectors to parish boards, as land-surveyors, and in one instance of a teacher of a parish school carrying on a drapery business. It is not easy to state a general principle applicable in all circumstances. I would say generally, however, that no teacher, having charge of a school of a given size, ought to be allowed to undertake any other remunerated employment, and certainly that such employments as that of land-surveying and trading ought to be prohibited.

With reference to the administration of the Ferguson Bequest, can you give us any information as to whether the schools to which funds are contributed from the Bequest have improved as regards teaching or not?—I think they have, very much. I have drawn up a statement with a view to bring out their progress in respect to the teacher's income. In 1858, the average salaries of male teachers in town schools was £71, and of female teachers, £44; that was the year before they received aid from us. In 1859, the average salaries of the male teachers in towns was £84, and of females £53; 1861, £81 and £54; 1862, £84 and £50; 1864, £88 and £50. In the country schools, the average

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income of male teachers in 1858 was £47, and of females £33. In 1859, it was £54 and £42; 1861, £56 and £43; 1862, £62 and £44; and 1864, £61 and £45. Of course, I do not attribute these results wholly to the aid of the Bequest. The improvement may result from—(1.) the Bequest grants; (2.) the additional salary given as against those grants; (3.) many of the schools having come under the operation of the Government system; (4.) the maximum of the salaries aimed at was raised a few years ago, since which a larger number of the higher schools have received aid. When a school reaches the maximum it is struck off our list. That is gradually being done, and others are coming on.

Lord Polwarth.—What do you consider the maximum?—£90 in the country, and £120 in the town, for a male teacher; and £60 in the country, and £80 in town, for a female teacher. As soon as that is reached through the aid of salary, fees, and Government aid, they are struck off our list.

The Chairman.—And you take others on?—Yes; poorer schools.

Lord Polwarth.—Has the number of the children increased?—Yes, considerably. If you improve the teaching, children will come to the school, and pay higher fees for the better article. They may not be children in a better position, they may even be working men's children, but they will come to the school where the education is best.

Perhaps the lower classes are not able to come?—I have not found many instances of that. I only recollect two cases in which I was told that the high fees in the school affected the labouring classes, and I made this arrangement,—you shall have £10 from us on condition of your allowing thirty, forty, or fifty children to enter your school and receive any education that you can impart at 2d. a week. I refer to one large school in the manufacturing town of Catrine, erected at an expense of £1800, and to the school at Kingsford, both in Ayrshire.

The Chairman.—What is the age of the children?—In the country it reaches from six or seven, up to fourteen, fifteen, and sixteen; in the towns I am sorry to say it is very low. I find few children in the schools I visit above twelve years of age.

Lord Polwarth.—Do they not come to school in the country before six or seven?—Most teachers are not willing to receive them earlier. They say their time is taken up by keeping little children in order. I have advised them to give the very young ones little slates, and let them draw a fish, a cat, or a dog, and by that means they are kept quiet while the teacher is going on with his other duties.

Mr. Dunlop.—You mentioned that you thought teachers of schools of a certain size should not be allowed to engage in any other employments: about what size of school occupies so entirely a man's whole time, that he ought not to be allowed to do anything else?—I think the Government restrictions are very good. If a teacher has above fifty children, he is allowed a pupil-teacher. I think one man could manage about sixty children; beyond that he requires assistance.

But I am alluding to your opinion how far teachers should be allowed to engage in other occupations?—I think a man with more than sixty children must be fully occupied, and has not much time to attend to any other duty.

I suppose you have had some concern in the establishment of some of the joint or non-denominational schools which you spoke of?—A great many of them.

When an application was made for a denominational school, have you ever declined to give assistance, unless the parties in the place would unite to make a joint school?—No; we have aid to give to each denomination.

Have you never in the circumstances of some particular locality said, There is not a sphere here for a single denomination, but if you will unite together we will aid you?—O yes, but in very few cases. I recollect one just now, on the border of the parish of Kirkcowan, quite in a remote place.

Have you had any difficulty in these cases in arranging the constitution of the school?—None. I never heard a complaint. I have left it to the promoters to arrange.

Have you ever heard of a want of harmony in the management on account of parties of different religions being the managers?—No; I cannot remember of any differences.

You said that the examinations, which might be considered as in room of the presbyterial examinations, were conducted by ministers of different denominations?—Yes; invited by the managers.

M. S. Tait. Is that the examination by the inspector, or a separate examination?—In the case of the examination by the inspector, the managers invite the ministers in the locality to be present; but I referred more to the annual examination of schools not under Government inspection.

Do you consider that the moral influence and advantage derived from an examination of that kind is probably equal to an examination by a committee of Presbytery?—My impression is that it is rather more favourable than a presbyterial examination. From the fact that the parish schools are excluded from my list, I have not had the means of judging of them; but three or four times I have made my visit on the day of the presbyterial examination, and to me it appeared a formal thing; the Presbytery sat by, and the teacher taught. During the seven years that I have been inspector, I have asked the teacher to give me charge of the school on these occasions, and I sit down and inspect the school. I don't go over all the classes; three is my usual number, the first, second, and third, beginning at the top. I sometimes find that they have too abstruse lessons, for instance, M'Culloch's *Course of Reading*, which is far too abstruse a book for the class of children referred to—in fact, it is almost a hand-book for college; but I like a lesson that the children can easily understand.

So far as you have seen, has the examination by the clergy of different denominations, invited by the managers, fully answered the purpose of examinations by the Presbytery?—I think so, fully.

Though you don't take parochial schools on your fund, you assist some female schools, the teachers of which get a salary from the heritors?—Not if they are parochial schools.

There is a provision under the late Act that the heritors shall give a grant to female teachers: you don't consider that to exclude your grant?—No, if the heritors resign the power of controlling the school. Our trust-deed excludes parish schools; and I have had to write to clergymen who have applied to us, saying that if the heritors will exercise no control in the school, we can give aid, but that otherwise we cannot give it.

Mr. Ramsay.—On what principle do the trustees proceed in selecting the particular school in a particular locality, to which they will give aid?—It must be connected, in the first place, with one or other of these Churches, or with an aggregate of these Churches. That makes them eligible for aid; they apply to us, and give information in a schedule; I visit them, and aid is given on my recommendation. We have rejected a great many as ineligible, not unfrequently through the teacher being incompetent, or from drunkenness.

You have no certain conditions laid down?—No certain conditions; it is just on the general investigation of the school, after we know that it is eligible in its constitution.

Mr. Davidson.—You said you thought the denominational system had a bad moral effect on the teachers, in respect that, after they have passed through the Normal School, they were induced to become either Established Churchmen, having been Free Churchmen before, or Free Churchmen, having been Established Churchmen before, in order to get situations: did you speak speculatively in regard to that matter, or did you ever know such cases?—I did not speak speculatively. I have known many instances. I could count them almost by the dozen. Certainly I have had more than a dozen.

Is it equally on both sides?—I should say so; but I think the Established Church absorbs more than the others, because they have more schools.

And the ground of the change is that it is made a part of the qualification, that the teacher shall say that he belongs to the Established Church, for example?—The precise ground, of course, I cannot speak to; but the fact I can speak to.

Can you give us any instances, without mentioning names?—I have found them one day in a Free Church school, and another day in an Established Church school; there is no teacher in a Free Church school unless he is connected with a Free Church congregation; and the same as to the Established Church schools.

Do you know of your own knowledge that the persons who so changed actually belonged to one denomination previous to the change?—Yes.

Members of a Free Church congregation, for example?—Yes.

And that it was made an obligation on them that they should change?—I cannot speak positively; but in an Established Church school (not a parochial school) a teacher cannot get a situation without being a member of the Established Church.

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Mr. Cook.—Are they made to sign a test?—No; but they have to attend the Established Church, or acknowledge that they belong to it.

Mr. Smith.—You cannot say whether they change from conscientious motives, or simply to get the school?—I cannot state their motives.

Mr. Davidson.—You stated that on a different system you would propose that the minister of each denomination in a parish should be a member of the board of management: do you mean that that should be enacted by Statute, or that he should be eligible for election by the electors?—The Act of Parliament would provide only for the ministers of various denominations being on the board, but I presume the minister himself would be chosen by the elective body,—in towns by the Council, and in the country by the committee of heritors and ratepayers.

That would apply to the parish minister as well as to others?—Yes; to every denomination having a congregation, and a minister over them.

So that they could not all be elected?—The place is open for them. If there is only one, the Act of Parliament would provide for that man; but if there are five or six ministers of the same Church, there would just be one of them.

You think the Act of Parliament should provide for one minister of each denomination being on the board?—Yes; in a parish where there were just one Established Church and one Free Church, both ministers would be in; if there were eight or ten Established Church ministers, only one of them would be in.

Should the Act of Parliament provide for the Catholic and Episcopal clergymen being in?—I think so,—ministers of all denominations.

You said you were in favour of a central board, do you mean in Edinburgh?—Yes.

Would you give us your views as to the constitution of such a board?—Such a board should be appointed by the Crown, have an office in Edinburgh, and have charge of the entire affairs of the Scottish national school system. The board would have a secretary and an establishment. Among other duties, the board would have to correspond with the Government, and with the several local committees of management throughout the country. The board would have the sanctioning of all regulations for schools proposed by the local committees, and would be a board of appeal in all cases of difference and requiring reference.

That board would appoint the inspectors?—I think so.

Lord Belhaven.—Would you propose to put the parish schools under that board?—The whole schools.

Mr. Davidson.—Would you give that board the power of removing the schoolmaster?—No; I think that should be in the hands of the local committee,—the central board having a veto; they should have power to inquire, and they should indorse the order to remove.

Without any appeal by the schoolmaster to anybody above the local board?—To the central board.

You would give an appeal from the local board to the central board?—Certainly.

Would you have the local rate fixed by the central board or by the local board?—The two would work together. In the first place, the central board would fix the income of the teacher, and if the other component parts of the income from various sources are insufficient to provide the salary fixed by the central board, the local board would have power to impose a tax to make up the salary, and also for buildings and repairs.

And over all that you would give the central board control?—Yes.

Mr. Cook.—You said all the schools receiving aid from the Ferguson Bequest were public schools?—Public schools, not adventure schools, not schools raised by a teacher merely for his own benefit, which he may shut next day. They are all under a committee, who appoint the teacher, and have the power to dismiss him.

Do you think all schools are public schools that are not adventure schools?—Yes, I mean it in that sense.

Then, according to that, a school on the foundation of a private trust would be a public school?—Yes; they have permanency. That is the meaning I attach to a public school. The teacher cannot turn the key in the door next day, and leave the school.

And though no part of the funds are provided by any public rate, it is still a

M. S. Tait. public school?—It is just to distinguish it from private adventure schools, where the control is wholly in the hands of the teacher.

You don't inspect parish schools?—No.

You have no experience, derived from your own occupations as inspector, of the state of education and management in the parish schools?—None.

You know, of course, what the constitution of the board for the management of the parish schools is?—I think I do; under the recent Act it is generally the heritors.

The heritors having a certain qualification, and the parish minister?—Yes.

You propose to substitute instead of that board a board composed of a committee of heritors and ratepayers?—Yes.

With the addition of a minister of every denomination in the parish?—Yes.

What do you call ratepayers?—I had in my mind those who pay poor-rates.

How is the committee to be appointed?—To be chosen by the ratepayers.

Are the whole ratepayers and heritors to assemble together at a public meeting and nominate a committee of their joint number?—The heritors would have the appointment of say six of their number in the parish, and the committee of ratepayers would have the same privilege.

Would the ratepayers hold a separate meeting to elect a committee of their own number?—Yes.

At what sort of meeting would the committee of ratepayers be appointed?—They are appointed annually, and after their appointment they might appoint a committee.

You are talking about the formation of a parochial board?—Yes.

Then the parochial board appoints a committee of its number to represent the ratepayers?—Yes.

And in addition to that you would have a minister of every denomination upon the board?—Yes.

How many members must be attached to a denomination to entitle a minister of that denomination to a seat at the board?—I have said a minister having a congregation; I have merely spoken in outline, and it must be defined more minutely. I should certainly have it a minister of an acknowledged congregation.

Whether large or small?—Whether large or small.

And whether there were any children of that denomination at the school or not?—Whether or not.

What is your reason for supposing that a board composed in that way would manage the school better than the present board?—My experience has principally been in the class of schools that are not parochial. Your question probably refers to the parochial schools.

We are talking of the parochial schools, and the board you suggest for the management of these schools, and I want to know your reason for thinking that this proposed board would manage the schools better than the present board?—Regarding the working of the parochial system I can say very little. The question asked me was, What do you propose as a system for all Scotland?

But you propose that as an improvement on the present board: what is your reason for thinking it an improvement?—Because at present the denominational system prevails. The Established Church have their schools under their own ministers, and the Free Church have theirs. I would try, if possible, to amalgamate these interests.

But the board of heritors to be constituted is composed of men of all denominations: what is your reason for thinking that a board elected in the way you have suggested would be a better board for the management of a school than the present board?—The heritors sit at that board as representing the contributions they give to the school. If the ratepayers are to pay for the education of the country, I would give them a voice in the management. That is my reason, and I have added the clerical element to give the representatives of the churches in the district a voice in the schools. I think the schools of this country have been very much beholden to the ministers of all denominations. I think they principally have conducted the education of the country in regard to control, though the small denominations have had very few schools.

Then it is not so much with a view to the better government of these schools that you think the rate ought to be extended; it is that the ratepayers should

be represented?—And to make it national. It is very much sectional just now. M. S. Tait.

How would it make it less sectional than at present, to substitute ratepayers of all denominations for heritors of all denominations?—But I have heritors and I have ratepayers represented as well as the clergy. My aim was to get as many nterests represented as possible.

Then your board is a mere theory?—A mere theory; a mere suggestion.

Mr. Ramsay.—It corresponds with the experience you have had in schools?—Yes; it is founded on my experience.

The Lord Advocate.—You must have seen a great deal of the bodies by whom these schools are managed?—A great deal.

Have you the slightest fear that the ratepayers are quite fit to elect competent persons to act upon committees?—I think they are quite fit.

And in your opinion, that would be far preferable from its catholicity to the management merely of the landowners in the district?—I think so; the fact is, that the landowners pay little attention to the schools.

There are many parishes where there is only one heritor?—Yes.

In those parishes where there is only one heritor, you would consider your plan preferable to the system of having only the one heritor and the minister of the Established Church to look after the school?—Yes.

Mr. Black.—You found the management of the undenominational schools to be generally most efficient; would not the class of ratepayers be something of the same character as those who manage the undenominational schools?—I think they would.

If you found that that class of managers was the most efficient, would you expect that the same result would follow from your having the management which you suggested?—That was my meaning in proposing them.

You stated, that in the whole of the 284 schools to which you give aid, the Bible and Catechism are taught?—I know of no exception.

Is that done spontaneously by these schools, or is it in order that they may receive aid from your Trust?—It is a spontaneous arrangement; I do not interfere with it.

You stated likewise, that for the support of the schools, supposing there was a national system, besides the fees and the rates, they should have a share of the grants from Government, do you suppose that they could not manage without the grants from Government?—They might, but I don't think that if Government is granting money to England and Ireland, Scotland should be passed over.

You would look for a portion of the Government grant, not from the necessity of the case, but because it is given to England, and because it would be unfair that Scotland should not have its share?—Simply so.

You stated that there is considerable difficulty in getting the younger children to come to school at an age when it is desirable that they should be receiving instruction. Are there many infant schools connected with the schools under your inspection?—I have very few infant schools to do with. I remember only two at this moment.

Do they receive grants from the Ferguson Bequest?—No; both are sessional schools. The one is in Eastwood, and the other in Cambuslang parish. They got aid to build the school-houses, but they do not get aid to carry on the schools.

You don't give aid to Episcopal schools?—No.

Supposing that in the different schools to which you give aid, the managers are of different denominations, and they include a considerable number of Episcopalians, how do you do in that case?—If there is an Episcopalian on the board, we exclude these schools.

Would you not give a grant, supposing the school managers were composed partly of Episcopalians?—We cannot, under the terms of our trust-deed.

Sir James Fergusson.—Although you do not require as a condition of the grant that the Bible and Shorter Catechism should be taught, the fact of your only giving money to Presbyterian schools, implies that these will be taught?—Yes, it does in a sense. We give aid also to Independent schools, but we have only two schools of that denomination, both in Glasgow; in both of these, I think, but certainly in one of them, the Catechism is taught; they are intended for the Presbyterian community.

M. S. Tait. With the exception of Independent schools, it follows that the Shorter Catechism would be taught?—Yes.

Would you refuse a grant to any school where the heritors, as such, were managers?—We must do so.

That is merely a bye-law of the trustees; it is not according to the terms of the settlement, is it?—It is keeping to the terms of the settlement. If all the heritors are members of Churches which we can aid, they may get a grant, but if there is a single Episcopalian, they cannot.

But if the schools are managed by the heritors as a body, you refuse aid?—Yes.

Supposing the schools are managed by one or more heritors, does that exclude them?—No, if they are *de facto* members of the Churches which I have named.

In suggesting that members elected by the ratepayers, or by the Parochial Board, should be associated with the heritors, you are only having regard, are you not, to the justice of representing those who contribute?—Those who pay fees and who pay rates.

Do you hope by these means to get an improved system of management?—I think so, because the heritors' control over the schools, generally speaking, so far as my knowledge goes, is a mere name.

Looking to the appointment of schoolmasters, have you ever known an instance of the appointment of a parochial schoolmaster being made from any other motive than a desire to get the best man available?—The parochial schools that I have to do with are for the most part sessional schools.

Have you ever known an instance in which a parochial schoolmaster was elected on other grounds than that of fitness?—I have no experience of parish schools. The experience I speak from is only in the schools we aid, and we aid no parish schools.

I want to get at your grounds for expecting a better management and a fairer election by associating the ratepayers in the management?—I do not quarrel with the present management of the schools so much, but what I regret is, that there is no interest taken in schools in Scotland. I often compare them to vegetables: they grow up or down as they like. What I wish is to get the country to feel an interest in the schools.

Lord Polwarth.—Do you found that observation upon the schools you are connected with?—Yes.

And not upon the schools of Scotland?—I am judging of the schools of Scotland from what I know.

Sir James Fergusson.—Have you no fear of the elected members being accessible to improper solicitation in the election of a schoolmaster?—I do not fear that. I have had experience for seven or eight years now, and I have never found that. In some cases where the schools were out of the way I have been applied to to nominate a teacher, and I have declined. I have recommended the managers to advertise.

Did you ever know in an election to a parochial office of a private canvass being made of the members of the board, so that the election did not take place by testimonials at all?—I have never heard of such a thing.

Did I understand you to say that public education should be provided for every class?—Yes.

You would have education at the expense of the State provided for a class able to pay for itself?—Yes, but I always allow fees to be charged. I should also provide for the modern languages being taught in every school.

Are you not aware that in the case of the parish of Barr, as in many others, the establishment of the Free Church school by the side of the parish school was owing to a defect of the law which prevented the removal of a master incapacitated for teaching?—I was not aware of that.

Mr. Smith.—You have had no experience of the purely parish schools?—None.

Therefore, so far as the management of these schools is concerned, you cannot tell how far it has been efficient or not?—I cannot.

I think you said that before you take a school on your scheme you make a personal examination of it?—In every case.

Have you any special conditions which must be implemented before you take on a school, or is it simply taken on upon your own recommendation?—My first inquiry is, who has the control of the school? If it belongs to a Church which we can deal with, it is accepted as eligible. Then I go to examine the school,

and if I think that though deficient now it is likely to improve, I speak to the teacher, and say that it is not so efficient as it should be, but I recommend so and so, and I visit it again next year. The aid is given on my recommendation. M. S. Tait.

The only condition necessary to be fulfilled is with reference to the management of the schools?—Yes, in regard to eligibility.

And your opinion is a conclusive opinion with reference to the sufficiency of the school?—Yes.

You have no other inspector?—No.

What is the average amount which you allow to schools under your scheme?—The sums vary from £5 to £20.

Upon what does the amount which you allow depend?—We have a maximum, beyond which we don't go. If a teacher is teaching well, and the district is very poor and cannot do much for him, we make the grant larger. Where I think the committee might do more for the support of the school, I say, If you will raise £10, I shall recommend other £10 to be given.

The sum is entirely given to the master?—To the master.

Not to the managers of the schools?—Not to the managers.

The amount depends partly on the efficiency of the master, and partly on the poverty of the district?—Yes.

So that it is an elastic system?—Yes.

I understand you make an annual inspection of every school?—Yes, so far as I can. I have on my list 307 schools; but I cannot overtake all these in one year. I overtake all the new ones, and a portion of the old ones. We have two large counties, Lanark and Ayr; and I take one of these every year, with probably two of the smaller. I go regularly to all the schools not under Government inspection.

After your inspection, have you found that you are able to increase the amount to the schoolmaster beyond the first sum given, or is it the same annual allowance that is given?—It is mostly the same; but I have increased it from £5 to £8, and then to £10.

Does that increase depend on the efficiency of the school?—Yes.

I understand your evidence of efficiency does not depend merely upon the amount received by the schoolmaster, but in consequence of your personal inspection, finding the school to be more efficient?—The increased income often indicates increased efficiency; but I satisfy myself by personal inspection.

In the district under your charge, would you say that there is sufficient school accommodation generally?—I should think not.

Is there any particular district in which you would say that the school accommodation is deficient, assuming all the schools to be well attended?—I have had a sort of plan before me; and so far as the Trust will allow me, I have been carrying it out. We have Wigtonshire on our fund; I might instance that district, as I found it lately deplorably deficient in school buildings, and, as a consequence, in schoolmasters, for a good schoolmaster will not teach in a bad schoolhouse, and I am in course of trying to make an improvement in the school accommodation of that district. All round Stranraer, I think, I have effected a permanent and substantial improvement.

I was alluding more to the number of the schools: is there, in your opinion, a sufficient number of schools in your district?—I cannot say so; I may state, as illustrative of the improvement effected, that in the district from Glenluce to the sea-coast, there is an old public-house called The Cock, on or adjoining the lands of the late Sir James Hay of Park; application was made to the Trust in behalf of a school situated not far from that inn; I found that the school was kept in a small cottage, fit for holding probably a dozen of people; a man was teaching about twenty children, and that was the school of the district; it was a road-side school, as one would call it, and connected with the Established Church. It was in the parish of Glenluce or Mochrum; it took up the ends of two parishes. The result of my visit was that a handsome schoolhouse was built, partly through Government aid; and the attendance is now usually about eighty.

Was it a parochial school?—It was under the control of the parish minister of Glenluce or Mochrum.

Lord Polwarth.—Was it not under the control of the heritors?—No, they took no interest in it.

What do you call the interest the heritors take in a school?—Visiting and

M. S. Tait. inquiring into its condition, and having the appointment and dismissal of the teacher; taking more charge of it than merely paying the salary.

To what extent can the heritors take charge of a school after they have appointed a master, beyond seeing that his conduct is good?—They did not see to this. In the case referred to, the proprietor lived in Ireland. He was seldom in Scotland, and took no interest in the school.

Mr. Smith.—Have you had any instance of a school once taken on your scheme, and afterwards put off in respect of inefficiency?—Yes, not many; but there are some.

Have these been denominational?—I think all denominational; there have been one or two cases only, and principally through drunkenness.

Have you had instances of teachers having been changed in consequence of the school turning out to be less efficient than it ought to be?—We have withdrawn aid from a school, once or twice, on the ground that the teacher was making no progress. The reason has become known to the managers, and they have appointed another teacher. We have then taken the school on again.

You give no aid to infant schools?—We have only given aid in two instances, for building.

Lord Polwarth.—Why do you condemn the heritors in a mass, since by the operation of the Trust under which you act, you cannot come in contact with them?—If I have condemned the heritors, it has been unwittingly.

You have said that they are a mere name?—In those schools I have to do with.

You said that throughout Scotland they are a mere name?—If I have said so, it was unintentional; I meant in those schools that I have to do with, where heritors are concerned.

Does not the Trust under which you act prevent you coming in contact with the heritors?—Substantially it does.

Does not the system on which you act induce heritors to withdraw, if they could be induced by such means, in order to get you to apply your funds to the schools?—It may have that tendency. The only heritors that I have referred to are those that are in any way connected with schools which we aid. I don't refer to heritors connected with parochial schools proper, but entirely to those who have to do with side-schools applied for to the Trust.

But you don't come in contact with the heritors?—If the heritors are *de facto* members of the Established Church, or the other Churches which I have mentioned, I can deal with them, but not as heritors.

Mr. Dunlop.—In regard to the committee of management which you spoke of, did you contemplate that the heritors should appoint one half and the ratepayers the other half of the committee?—Yes; equally, apart from the clergy.

Have you any idea what is the most efficient number of a committee to manage a school?—I think a committee of seven or nine is a very fair number.

Would you rather not go beyond nine?—I think not. I have seen, and every school-inspector knows, the good effect of the managers looking into the school occasionally, and that is the reason why I am so keen in seeking to have a committee that would really take an interest in the school.

Lord Polwarth.—As to your mode of examining, I gather that the object of the Ferguson Bequest is to raise the status of education, rather than to extend it to the lower classes, because you say you begin at the higher class, and examine downwards, and you ultimately get to the lowest class?—In course of time I get at them all. The reason why I take the highest classes or forms is, that it is probable I will never see these boys again—next year they will have left school; but by taking the highest classes I get at all the children in the school in course of years.

If all the boys remain; but you seem to examine in the higher branches?—No; I keep to the elementary branches.

Lord Mure.—I understood you to say that the local board of management should contain a certain number of persons representing the ratepayers?—Yes.

Do you propose that it should be direct representation of the ratepayers, by the ratepayers electing the parties themselves, or that the Parochial Board, as chosen by the ratepayers, should name so many members?—I mean the latter,—the parochial board appointing a school committee.

You think you would thus have all the benefits of ratepayers being elected without making the election a popular election?—Yes.

You think that a safeguard against the excitement which would be occasioned by a direct election?—Yes.

Lord Polwarth.—You don't examine the younger children?—Very seldom; it takes a very long time to examine young children. I cannot spend more than two hours in a school, and that would be swallowed up by a single class of young children. M. S. Tait.

You do not examine the younger children in the more elementary branches?—I have done that, but not generally.

Then a child must be three, four, or five years in a school before he is examined by you?—Yes, according to the size of the school.

[THE LORD ADVOCATE *here took the Chair.*]

WELLWOOD HARRIS MAXWELL, ESQ.,—*examined.*

The Chairman.—Would you give us your opinion as to the operation of the existing parochial schools, and the Privy Council system of grants in aid, in providing education in Scotland for that portion of the community for whom the parish schools were originally set on foot, and as to whether the combined operation of these systems is sufficient to meet the educational wants of the country?—Of course my remarks are applicable to the district with which I am connected, which is the south-west of Scotland, and more especially the stewartry of Kirkcudbright, and there I consider that we are well provided with schools, and that, on the whole, the existing position of matters is satisfactory. W. H. Maxwell.

You are speaking now of the operation of the parochial schools and the Privy Council grants?—Yes, the Privy Council grants have been taken advantage of by a number of the parochial schools, with satisfactory results, in my opinion.

To a large extent?—To a considerable extent; I cannot speak definitely. The parishes that I am connected with generally have availed themselves of the grants.

So far as you are aware, there is no material defect in the working of the schools, and no material want or destitution in the district?—There is no want of schools. I don't say there is no want of education.

As to the Privy Council grants, have you had much experience of the system upon which they are administered?—I believe the parish school in one of the parishes that I am connected with, was the first school in the stewartry of Kirkcudbright which had the Privy Council grants; and there we have derived great benefits from these grants; indeed, we never could have secured a good teacher without them.

Are you in a position to give an opinion on the comparative merits of the existing system and the Revised Code?—Not very much in detail; but the impression I have got from perusing the Revised Code, and from what I have heard from teachers regarding it, is, that it will have, in many senses, in country districts, an injurious effect.

In what direction?—In the first place, the emoluments given to the schools that require assistance most will be very small; and in the next place, its great object is to lower that class of education which has been universal in the parochial schools of our district.

By directing the teacher's attention chiefly to the elementary branch?—Yes. Up till very lately there has been a good deal of the classics taught in the parish schools, and that is being diminished now, and the fear is that it will be still more diminished by the Revised Code.

Have you any means of judging of the state of elementary education in your district?—It is rather difficult to answer that question; but my impression is, that we are not improving very much. The irregular attendance, and the short attendance at school is, I fear, very materially increasing.

Would you attribute to that, more than to the system, any deficiency of education that there was in the district?—It is not the deficiency of the masters.

But deficiency in the actual education of the children?—The irregular and the short attendance prevents them getting the same advantage which they would get if they were more regular; that seems increasing.

Can you give us any details as to the ages at which children leave school, or the period for which they attend?—No; but yesterday I was in a school where there were 170 children on the roll, and the teacher told me that the average number absent from day to day was thirty.

Do you think that any educational test would be desirable with regard to the

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employment of children in outdoor or indoor labour, or would that be practicable?—It would be very desirable, if it could be carried out.

Would the employers of labour in your district generally be in favour of such a proposal?—I could not speak to that very clearly.

We have been told that in some cases the Privy Council regulations have been evaded by the managers of schools,—can you give the Commissioners any information as to that?—I have heard of such things.

Do you know the details of any such cases?—I could not state them, because they have come under my notice in a court where I am sworn to secrecy.

You mean as Income-tax Commissioner?—Precisely.

But it has come to your knowledge that there are such cases?—Yes.

Were they clear and flagrant cases?—There was one case, I recollect, that was very clear.

Have you many denominational schools, besides the parish school, in your parish?—Yes, a good many.

Both General Assembly schools and Free Church schools?—No General Assembly schools.

Free Church schools?—Yes, and adventure schools.

Do you think that the funds given by Parliament could be advantageously distributed on a general system, instead of a denominational system?—I don't see why they should not. If you remove all denominational grants then you will have a general system.

Supposing there was an extension of the parochial system, would you propose to leave the management of the new schools precisely as the parish schools stand at present?—No; you must extend the basis of management.

In what way would you propose to do that?—The proper way, if you could get it carried out, would be by having some committee of management connected with the schools on a more extended basis. If you extend it, there must be a rate which would fall upon the whole landowners in the country, and the ratepayers; and then the ratepayers should have some representation, although on that point there is great difficulty, from the difficulty of getting any one to take an interest in country parishes. That is almost an insuperable difficulty.

But for that, do you see any material difficulty in the extension of the system?—No; except from a strong denominational feeling prevailing.

If that difficulty were get over, you don't think there would be any other difficulty?—None.

You consider that a desirable thing to effect if it could be done?—Yes; I think so.

In regard to religious instruction, supposing that there were such an extension of the parish schools, would you propose to provide for the religious instruction in the schools by Act of Parliament?—I don't think there can be any objection to the present religious instruction by almost any one.

Do you think the same system would be followed under such a management as you have indicated?—Decidedly so.

In regard to the teachers in your district, do you find them to be men of attainments; are they satisfactory in point of intelligence?—The new teachers are decidedly so.

Those who have been trained under the Normal School system?—Yes.

Do you attribute much importance to that?—It is a most important thing. I don't know that anything has tended more to the improvement of the teachers and of education than the Normal Schools. They should be encouraged.

You can speak to a great improvement in the qualifications of the teachers?—An immense improvement within the last twenty years.

Have you any opinion as to the mode in which Government should assist these Normal Schools, or whether they should be assisted by Government?—I think they should be Government institutions entirely.

But, however supported, you attribute great importance to them?—Immense importance. No teacher would be appointed now almost without having been at the Normal School.

I understand your opinion is, that any deficiency or defect in the educational system in your district does not arise from want of schools or want of good schoolmasters, but mainly from the want of the attendance of the children?—Mainly. There are inefficient teachers, no doubt; but, on the whole, it is from the conduct of the parents, and not of the teachers, that education is defective.

Do you find much difficulty in getting rid of an inefficient teacher?—I had very great difficulty in getting rid of a teacher in the parish I reside in, from a defect in the late Act of Parliament. The man was a lunatic, and was confined in a lunatic asylum, and we could not get rid of him. At last he got so much better that we got him out of the asylum, and got his consent. I don't doubt he was so far recovered that that was all right; but for two years we had the greatest difficulty. W. H. Maxwell.

What was the defect in the Act of Parliament?—We could not call upon him to resign.

What would you suggest as the best mode of providing for the dismissal of an inefficient teacher?—The present mode seems, on the whole, pretty satisfactory. I happen to have to pay no less than four inefficient teachers,—one, the lunatic, two old men, and another who was useless, a young man under forty.

You did that by making them resign under the clause in the Statute?—Yes.

You gave them a retiring allowance?—Yes.

How did you get rid of the young man of forty who was totally useless?—He retired; his school was examined, and he was declared totally inefficient.

You gave him an allowance?—Yes.

Not from obligation, but from kindness?—I suppose there would have been great difficulty in getting rid of him otherwise.

Mr. Ramsay.—Do you think it expedient that a teacher should have a right to an allowance, if in respect of his years he would be otherwise able to earn his living, and if it is from inaptitude for his office as a teacher that he is displaced?—No, I think it is a very hard thing to pay a man who, from his own negligence and carelessness, is neglecting his duties, when, probably, he has the power if he chose to apply himself. That is a hard case on the ratepayers.

Would you approve of the law being so altered, as to enable the teacher to be dismissed on account of inefficiency?—I think decidedly that would be an improvement.

Mr. Davidson.—You have said that the irregular attendance is increasing: is there any reason for that?—The only reason that I can give is, that this is a money-making age, and that the parents look to making more money out of their children than they did twenty years ago; and there is more country work in the early part of winter and summer than there used to be. Children of ten or eleven years of age are taken away to hoe turnips in June, and they don't return to school till the turnips are stored in the middle of December.

What are they doing now?—They are at school now.

Lord Polwarth.—At what age do they leave school permanently?—It varies very much; but on an average, twelve or thirteen.

Do they remain as long as that?—Not many of them, except the better class.

Do labourers' children remain so long?—It is very common with us for a farm labourer to put his boy or girl to school in the summer, and to take him home when he is fifteen or sixteen, and to give him a quarter's schooling in the winter.

That is only in rural districts?—Yes.

Mr. Cook.—How would you propose to provide for such a case as a schoolmaster becoming a lunatic?—It would be possible to appoint a curator for him.

You spoke of extending the basis of the board, by a representation of ratepayers: that is on the assumption that the school rate is extended?—Yes.

Would the representation of the ratepayers be in addition to the present board, or would you make the whole board representative?—I would leave the present board, and in addition to it, I would have a representation of the ratepayers.

Would you make any change in regard to the clergy?—I presume, if you had a national system of education, and did away with denominational schools entirely, you would bring in all the clergy of all denominations which take an interest in the schools.

Or none?—Or none.

Would that be preferable to the present system of denominational schools supplemented by grants?—So far as our part of the country goes, I don't think we want much improvement in any way. On the whole, we are pretty satisfactorily situated. The great drawback we have is the adventure schools, which are most injurious, and doing a great deal of mischief.

But so far as the parochial system and the Privy Council grants are concerned, you would be content to remain as you are?—I think so.

W. H. Maxwell.

How do the adventure schools do harm?—They are taught by very inferior men, and people send their children to these men just out of charity.

Do they send them from charitable motives, in place of sending them to the parochial or better-taught schools?—It is by choice or by canvass. In the parish I am connected with, we dismissed a teacher before the present Act came into operation, for intemperance, and he has remained in the village he was in, or immediately adjoining; and he started a school for himself immediately after he was dismissed; he is teaching there still in a most inefficient way; and he was not only intemperate, which I don't think he is now, but totally useless. When the parents think the other teacher too severe in demanding his fees, they send their children to this man.

Then it is not, according to your experience, that the parents always elect the best teacher?—No, very far from it.

Mr. Black.—You would not prevent that man from keeping a school if he chose, or prevent the parents from sending their children there?—I don't know. I think it is doubtful whether it would not be very desirable that such a man should be prevented from teaching.

Could you do that by any Statute?—You have Statutes regulating medical men, and other matters, and I do not see why you should not regulate teachers. It is doing a deal of mischief.

Sir J. Fergusson.—In case of a mixed board being established, of heritors and representatives of ratepayers, would you consider it essential to keep the parish minister as an *ex officio* member?—It would be desirable.

You would not give that up?—It would be continuing the present board, as I said before,—the heritors and the parish minister.

You would not recommend the presence of the parish minister at the board being given up?—No, I should say not.

I am presuming it is insisted on very much by other denominations?—The management depends very much on the state of denominational feeling that exists. In some cases it might be very advantageous, and in others it might be very injurious.

Do you not consider it necessary to retain in the management the representative of a recognised religious body?—I think the parish schools should not be entirely upset, and that the present management should to a certain extent continue whatever extension takes place; and anything supplementary should be added to the existing system.

But the connexion would be to a great extent severed if the parish minister had not a place at the board?—It would.

Mr. Smith.—Have you found the Privy Council grants fostering schools unnecessarily in your district?—I should say that to some extent they have; but there may be difference of opinion on that.

But so far as your district is concerned, you think that there have been one or two schools rather unnecessarily established in consequence of the Privy Council grants?—There is no doubt a number of schools that never would have existed but for the Privy Council grants and the Ferguson Bequest.

Do you consider these schools unnecessary for the district: would there have been schools enough without them?—I think so. I don't think opposition in schools is often desirable, because in a limited population you reduce the number of children so far that the emoluments of the teacher are lower than they should be. Therefore you would be better with a better class of man, and an assistant, than you would with two indifferent teachers.

Can you state any particular places where this has existed, or is it a mere general observation?—I could state one distinctly, where I think there is no doubt that it is unnecessary,—in a parish in which I have property myself. In the parish of Irongray there are two schools close together that there is no necessity for.

How are they attended?—The one has between sixty and seventy scholars, and the other about twenty, or a deal more; and one would be quite enough. The population is very limited.

With reference to the new board of management, do you think that the parochial board would be a good basis for the purpose of electing out of the ratepayers men to attend to the management of the schools?—It might be.

Have you found the parochial board taking an interest in its own duties?—

Most decidedly not, but I don't see where you could get any better. We can get no elected members of parochial boards with us. W. H. Maxwell.

Would you be much better off with a committee of the ratepayers for the management of the schools, if you are not well off with a committee appointed by the ratepayers for the management of the poor?—I don't think so; but I don't think a national system of education would go down without something of that sort.

But what do you think the best system?—My experience is, that elected members and boards in parishes are totally useless; a dead letter. For the poor, for instance, we cannot get any one elected, and you cannot get any to attend if they are elected. They might attend for any special job, but for the general good they would rarely attend.

From your experience of the parochial board, do you think a committee of the ratepayers would be as inattentive to the schools as the parochial board are to their duties?—I think they would, after the first year or so.

And you don't anticipate they would form a good board of management?—I don't think it would be any better than the existing board.

Mr. Black.—If they had children there, would that not increase their interest so much as to make them attend?—You would fancy that their pockets in regard to the poor's-rates would make them attend, but we find that they don't do so.

Lord Polwarth.—What distance do you think a child can go to a parochial school?—From three to four miles is about as far as they have to go.

The Chairman.—Have you anything else to state to the Commissioners?—In our district we have almost universally two or three schools in each parish, which makes a considerable difference in the emoluments of the teachers. I think they are worse paid in the south-west of Scotland than in any other district.

That is from the scattered nature of the population?—I don't know; but there is no parish in the stewartry of Kirkcudbright, with few exceptions, where there are not two, and sometimes three schools.

Have you anything to suggest for improving the position of teachers?—A number of the side schools, as they may be called, cannot get grants from the Privy Council under the Old Code, because the buildings are not in a satisfactory state, and it is difficult to get the buildings, because they are not compulsory upon the heritors.

You think the rules should be relaxed in a case of that kind?—Yes.

Lord Polwarth.—The Ferguson Bequest gives assistance in your district in cases where the heritors take no part in the management?—I don't think that is Mr. Tait's rule of working.

The Chairman.—Do you find that the heritors attend much to the schools?—I would be inclined to say that they do; very much. I might state that there is very great difficulty now in getting pupil-teachers for schools.

Does your experience lead you to approve of the system of pupil-teachers?—It has done a great deal of good; but it has been very much overdone. There are far too many teachers in the market, and you cannot get boys now to enter on the profession. But in a large school, of course, there is some assistance required by the teacher.

Mr. Dunlop.—Looking merely to the efficiency of the school, would you prefer a qualified assistant to the services of these pupil-teachers?—I would. I was discussing that point yesterday with a teacher whose pupil-teachers are leaving him, and he cannot get pupil-teachers, and he is quite of opinion that he would be as well with an assistant.

Lord Polwarth.—You said you thought the present schoolmaster very superior to those of a few years ago?—Yes.

Do you think the quality of the teaching generally in the schools has improved or deteriorated within the last thirty or forty years?—I think the quality of the teaching is improving. I think the new teachers, who have been trained in the Normal Schools, have come to their duties much better qualified than the older men.

Does that apply to the elementary branches or to the higher branches?—More to the elementary branches. The higher branches have been discontinued to a large extent. I don't suppose there is one boy learning Latin now, for a dozen who learned it twelve years ago, in Galloway.

Then, to a certain extent, the schools have gone down?—To that extent; but

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the farmers are now in a better position than they were forty years ago, and the higher classes of farmers send their sons away from home to the towns, or to the larger schools in the district.

You don't think the higher class of education is so necessary now as it was thirty or forty years ago?—I don't say that. I would be very sorry to think that there should not be a school in every parish where a young man who has that turn may push himself forward.

But you said that does not exist?—It is falling off greatly.

Mr. Dunlop.—Falling off, not from the failure of the schoolmasters' ability to teach, but from the children not requiring it?—It is not from the inability of the teachers to give the education.

Lord Ardmillan.—Do you think that in almost any parish in the south-west of Scotland, a youth, ambitious of excelling, would want the opportunity of getting the higher instruction in the parish schools?—Not now; but with the Revised Code, and with the present inducements given to the teacher to reduce the standard of education, it may come to that.

You are afraid it may come to that, but you don't think it has reached that yet?—No; I don't think it has.

Mr. Black.—You think the Privy Council grants have the effect of lowering the education in the schools?—Yes; because attention is devoted to the elementary branches almost entirely, and in a number of our parish schools in the country districts there is scarcely a Latin scholar.

DR. MACKINTOSH MACKAY,—*examined.*

Dr. M. Mackay.

The Chairman.—Where are you at present resident?—In the island of Harris.

You have had, I believe, great experience of the religious and educational state of the Highlands?—I have.

You were for a long period a clergyman at Dunoon?—Yes.

In connexion with the Established Church, and after 1843 with the Free Church?—Yes, till 1853, when I went to Australia; and I returned to this country in 1862.

In what districts, and to what extent, do you think there is any educational destitution in those parts of Scotland that you are acquainted with?—It is more especially in the Hebrides, but there is a degree of destitution more or less from Caithness, along the west coast to the Mull of Cantyre.

You think it is in the Highland districts chiefly?—Yes.

To what extent does the present parochial system meet the wants of that part of the country?—To a very small extent indeed.

Would you explain the grounds upon which that opinion is founded?—There is the extent of the parishes, in the first place. It is utterly impossible for the children in many districts of a parish to come near a parochial school, not only from the distance in measurement, but from the nature of the surface over which they would have to travel.

Does that apply to a very large proportion of the parishes in the district you speak of?—The greater part, and the people not being spread uniformly over that surface, but generally crammed a good deal together in particular localities.

So that you think in the large proportion of the parishes in the district, there is a large proportion of the population who have no means of education?—Yes. At the same time, I beg to explain that we have schools established by different associations and societies, which do so much, but I don't look on these as institutions; I have no confidence in their perpetuity.

I was talking of the parochial system alone: you think there is a large portion of the population, that the present parochial schools cannot meet the wants of at all?—The larger proportion of the population by far.

To what extent is that destitution supplemented by voluntary efforts or by Privy Council grants?—Very considerably, certainly, but not at all thoroughly; perhaps to the extent of two-thirds nominally of those wanting education; but those institutions are inefficient and defective.

That destitution existing, what suggestions have you to make for the purpose of removing it?—In the first place, the grants from the Privy Council are altogether inoperative among us, though there are a few exceptions.

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Does that arise from there being no means of contributing a corresponding amount from the locality?—Almost wholly, and from the other condition respecting buildings and the arrangement of the schools; the utter impossibility on the part of the people of supplementing what is required as a condition of the Privy Council grants. That is our sorest evil.

Then, in order to meet that deficiency, it would be necessary to increase the amount of the grants, or at least to modify the conditions under which they are given?—To relax the conditions, or rather that we should have conditions of our own not applicable to other districts; because the nature of our soil and the circumstances of our people are very different from what is to be found in the more cultivated parts of the country.

What would you propose?—I think a special grant for the Hebrides, the Islands, and the west sea border which I have mentioned, is necessary for us.

You think the grant should be given unconditionally, without reference to the amount raised in the locality?—Yes, in the majority of instances it must be so.

How should it be managed or distributed?—Supposing a special grant for the remote Highlands and Islands were made by Parliament, I suppose it would require a sum of from £6000 to £8000 a year to make it thoroughly efficient for the education of the people. That might be placed in the hands of a board appointed for the purpose in Scotland—persons who know the nature of our territory and the condition of our population; and on application being made from any island or district, guaranteeing the attendance of a certain number of scholars, and building a school-house, if the number of children amounted to thirty in a locality sufficiently distant from other schools, a grant ought to be given them by that board, and the teacher should be paid from some extraneous source, not depending for his subsistence on the population of the district attending his school.

How many schools do you contemplate as being represented by the sum you have mentioned?—It is only an approximation which I have made; but looking to the schools at present in existence, and putting them aside as not being permanent schools, we would require perhaps 200 schools. That is the nearest approximation I can make.

How much would be required between building a house and supporting the schoolmaster?—As to building the house, it is impossible for us to obey the Privy Council.

Well, putting that aside, how much would be required?—I should be content with a house of the same kind as the people themselves dwell in, or a shade better, floored, and well lighted, and that the people themselves might be competent to supply.

You think the district should find the house, if the Government found the teacher and the salary?—Yes.

What in these districts would be sufficient maintenance?—I cannot name anything less than £30 a year, and I think that would be a stimulus to the teacher, while he should have an interest in the fees, to be exacted as fees, less or more.

£30 a year for each of these 200 schools would about meet the amount which you would wish the Government to give?—I should be disposed to say so.

Do you think, if that were done, that a really efficient system of education could be instituted in the Highlands?—I think so, decidedly.

And that that would make a real impression on the population?—I should hope it would not only make an impression, but change intellectual habits and ideas, and change even their pursuits to a very great extent, and make them as far advanced as their neighbours in more cultivated parts of the country.

Have you ever considered the question of itinerating schoolmasters?—I am well acquainted with them.

What opinion have you as to such a system?—It is a very good help, but it is only a help; it can never be very adequate in itself.

But there must be districts where it might be of use?—No doubt, and we would be glad to get even itinerating schools. But they never are satisfactory; the intervals are too long between one teacher and another coming, and anything like real education is very much lost to that generation. With respect to the Gaelic schools, they supply the want tolerably well.

The schools you refer to would be English-speaking schools?—Yes, of course.

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Do you propose to do that on a denominational or on a general system?—A general system.

What kind of management would you require in whom you could place the administration?—There is one matter necessary which has hitherto not been acted up to, that is, the inspection of schools. There must be an active, real, habitual inspection.

A Government inspection?—Yes, together with perhaps an inspection by the ministers of the different denominations to which the schools belong, or by the ministers of the various denominations put together.

Where would you place the election of the teacher, and the regulation of the fees?—I think that should be placed in a board instituted for the purpose, with the advice of the inspector, and perhaps of the several ministers of the denominations in the place.

In these districts, do the heritors take much charge of the schools, such as they are?—So far as I am acquainted with the heritors in these districts, they generally have an interest in furthering education.

And they so far look after the schools?—I believe they do; they certainly do in some parts considerably.

In what way would you propose that the new schools should be managed?—I should prefer having the election and nomination of teachers in the hands of an educational constituency of the district.

Of what nature?—Heads of families and payers of rates. We require that, in the Highlands particularly, to give more interest in the schools.

You think education is not valued as it ought to be?—I think it is beginning to be valued by the people feeling the want of it, and finding that they are not able to better their condition from the want of it.

Would you place the election in the hands of the constituency to whom you have referred, or would you make them elect a board for the purpose?—That depends very much on the population; I think the smaller number might be more efficient.

Have you any experience of how such a system would operate in these districts?—I have had occasion to observe the operation of it in Australia, where this was very much the usage.

How did it operate there?—I cannot say it operated there to my satisfaction, so far as I observed it, owing chiefly to denominational differences—Roman Catholics, and Protestants, and people from every country almost; but where there is no variety, I think it would operate quite well and advantageously.

Is there not a considerable Roman Catholic population in some of the Highland districts?—In most of the parishes there are no Roman Catholics. In the island of Barra, two-thirds of the population, I believe, are Roman Catholics, and the same in South Uist; in Eig and Canna they are almost wholly Roman Catholics. In Canna, I believe, they all are, and the proprietor as their head; and on the sea-board which I have mentioned, there are localities where Roman Catholics prevail, but they are hardly a majority.

I presume you would not exclude the heritors or landowners from their share of the management and election of schoolmasters in these parishes?—Certainly not from having a share of it, but it frequently happens that the heritors are in a manner inaccessible to us.

In what respect?—From their distance from home, and their want of knowledge of the people and their situation. We have to get at them through their agents and managers, and even were such schools established, there would be frequent need of renewed election from young men aspiring to higher situations—young men coming to the schools and leaving them. There would be long intervals, if their election depended on non-resident heritors.

Therefore you think it necessary to have some addition to that management?—Certainly.

Are there many cases where there is only one heritor?—There is only one in Harris, and only one in Lewis, only one in South Uist and in Barra, and in North Uist, and in Canna and in Rum.

What is the population of the islands you have named?—I would refer to Mr. Ramsay's pamphlet on that head. I think it amounts to 83,000 or 84,000.

As to the Privy Council system, you say it operates to a very small extent in the Highlands: do you know any instance where it operates to establish schools

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where they are not required?—I don't know any such case. I don't think it has had that operation. It may have occurred in a particular district, of which I am not aware.

To what extent, generally, do you think the parochial system admits of extension, so as to overtake the educational wants of the country generally?—I take the parochial system with all its accompaniments. There is one very strong objection to it,—the accommodation required to be provided. I think the heritors in general would feel themselves justified in declining to go beyond a certain amount in the way of providing accommodation.

Would you meet that difficulty by making the requisites less, or by extending the area of taxation?—I suppose they consider themselves sufficiently taxed already.

What would you propose as a mode of extending the parochial system?—I am not in favour of extending it at all. I think it is inefficient in every way, from the altered nature of the country.

What would you superinduce on it?—I think if the Government provide the means, they have a right to send the teacher, and that the teachers should be selected from the Normal Schools of the country.

You would propose that Government should assume the whole burden of supplementing the existing system?—I fear very much we shall never have the full benefit of education to the population of these districts without that being the rule.

I was not speaking of the Highland districts, but as to the country generally?—I should be slow to speak to that. My acquaintance is not extensive in the low country.

Your view is, that in the Highlands, Government must bear the whole burden of education?—Decidedly.

You have told us that the grants in aid in these districts are substantially useless?—Null and void; utterly inefficient.

Have you anything to say on emigration, in connexion with the educational state of the district?—I consider that a very important consideration indeed. The want of education of the people prevents them seeking emigration; they rather avoid than seek it, whereas, if they had the benefits of education for a short period, even in the present generation, they would emigrate of themselves in large numbers. I have seen the evils, which I look back on with grief and horror, of the effect of want of education in the colonies when they go there.

You have seen that in Australia?—Yes.

In the Highland population particularly?—Of course, I took more notice of the Highland population, or the Scotch population.

Do you mean to say that of those who emigrated, almost all were not educated, or under-educated?—Yes; and the same thing operates in regard to emigration to Canada.

Do you consider emigration a good thing for these districts?—Yes, to a certain extent, that the superabundance should be drained off.

The moment they acquired sufficient knowledge to make their way abroad, do you think they would go abroad?—Certainly.

Do you find that where they are educated they go abroad?—Very speedily; they find their way to the Low country and to the colonies, and so far as the benefits of education have gone, to my own knowledge, the results have been most satisfactory and promising. I can trace many young men in Edinburgh, Glasgow, and Greenock, and the great centres of population, and in England, and in the colonies, in very respectable situations in life.

You anticipate that, if education were better, that would take place to a much larger extent?—Certainly.

Would there be any difficulty in getting teachers for such schools as you have mentioned?—I should say that the teachers ought to be persons who have undergone training for teaching, and they should be drawn from the Normal Schools.

Would you require Gaelic speaking for most of them?—Not in all cases. In some instances I would not require it, but generally it would be a benefit to the teacher and to the scholars.

They would be more efficient if they had Gaelic?—Yes.

Have you any other suggestion to make as to the details of the management of such schools?—I think supervision is the life of schools. Without the teacher

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having a sense of authority over him, the school is not an efficient school. In suggesting that the ministers of the denominations in the district, or the minister of it, should have some supervision, it should be his duty twice in the year, at least, to examine the school, and to have a running supervision over it, and over the teacher; and the Government inspector should make regular visits once a year at least. I also think that there is another matter which would raise the standard of education among us, and extend its benefits, I mean that there should be competitive examinations of all the schools in certain districts once a year. Let them compete for prizes locally given, and the teacher himself would have an interest in the appearance of the children.

You think that the emulation excited by that would be beneficial?—Decidedly so.

And create greater interest in the whole subject of education?—Yes. The Celtic Society of Edinburgh have been doing a little in that way in certain parts of the country, and I have generally observed young men coming from these parts better and quicker scholars, and with a better standing as scholars, than those from other counties.

Is there a large proportion of the population that grow up substantially with no education at all?—A very large portion.

Out of the 80,000 which you gave as the population of the islands, how many do you think are able to read and write with anything like utility to themselves?—I have been two years in one end of Harris, and I have under my charge fully one half of the population of Harris, which is 4000. I have under my charge 2500, and I have married not fewer than thirty couples since I went there, and not an individual of all these could sign their names, except, I think, one couple. I have evidence of public meetings being held in that part of Harris which I have the oversight of, connected with the Free Church, and where the people are mostly all Free Church people, and at these public meetings, held for certain purposes, not one could sign his name, except two individuals. That is diminishing, but the uneducated remnant is very strong, and where there are no schools, of course it is perpetuated.

How would you ascertain where these 200 schools should be placed?—The people should make application for a school, and show that there is a number of children adequate to employ a teacher.

Do you think they would make application for schools?—Decidedly they would, under the guidance of their ministers. I would prefer that it should come from them rather than from their minister, because then they would consider the school more their own.

You would place the schools under the charge of an elected board, including the heritor or heritors of the parish; and you would have them inspected by the Government inspector, and by the ministers of the different denominations within the bounds?—Decidedly.

Would you make any provision by Act of Parliament for the religious education of the people?—Surely.

What kind of provision?—What has been understood as the law of the parochial system in Scotland,—the reading of the Scriptures and the teaching of the Shorter Catechism.

You would not think it sufficient to leave that to the people having the management of the schools?—My opinion of the people within the district I have named is, that they would not have schools which had not that element in them.

Lord Ardmillan.—You say that the people would not have the schools without that element?—Yes.

The Chairman.—Would that not be a sufficient guarantee for the religious instruction, without a legislative enactment on the subject?—I don't say so; but it is certainly an element.

How would you deal with those districts where the Roman Catholic population is collected into a nucleus: you would not exclude them from the benefit of the grants?—Certainly not. I have had very considerable experience in dealing with Roman Catholics on the subject of schools, both in the Highlands and Islands, and I never yet found any difficulty in establishing schools among the Roman Catholic population taught on our own principles. The first charge I had in the Church of Scotland was in the parish of Laggan, where one-third of the population was Roman Catholic; and I brought up the attendance in the

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schools in the parish to one-third of the whole population. I placed schools in every corner where a sufficient number of scholars were to be found. The Roman Catholics came regularly to these schools, glad to get them even at that period; and still more would they be so now. I met several instances where the priest himself came to the school, and prohibited the children from coming; but the people set the priest at defiance, and sent their children notwithstanding. Some of them would not come in to prayer or read the Bible, and none of them read the Catechism; but I never had any difficulty about that. At this period, we had schools where the population was entirely Roman Catholic.

Where?—In the island of Uriskey, between South Uist and Barra, there has been a school of that kind for several years, which I myself set agoing, and they never complained.

And they have attended it?—Yes.

If the Government schools were established on that footing among the Catholic population, you think that would be the result?—I think so, and from my own experience, I cannot doubt it. I should have no objection to make the priest in the district, if there were a priest, a member of the board for regulating the school.

Do you think the priest would act, without liberty, to teach scholars the tenets of their own faith?—I think in general they would; perhaps they all would.

Where the population is entirely Catholic, would you object to its being managed as a Catholic school?—I would object on principle; but there is no great danger of that, because the Roman Catholics have not young men of their own whom they could place as schoolmasters anywhere. They would require to draw their schoolmasters from us.

You think they would acquiesce in having Protestant schoolmasters?—I think so.

What religious instruction would you give in a school which was entirely Roman Catholic?—I would insist on the Scriptures being read. I would not insist on more than that.

You think you could, with success and efficiency, do that?—I am morally convinced of it.

If they would not do it otherwise, you would not object to their being conducted on Roman Catholic principles, where the population were overwhelmingly of that persuasion?—I don't view that with much fear.

Mr. Ramsay.—Have you any Gaelic schools in Harris?—We have one in the island of Oronsay.

Do you find that Gaelic schools are acceptable to the people?—Not now.

Do you think schools of that kind had better be discontinued in these districts, so as to secure the attendance of the young in schools where English is taught?—I think Gaelic has become inefficient now. I would teach it in our schools; but Gaelic schools the people won't have.

You mean you would prefer that the people should be taught to read the Bible in their mother tongue?—Yes, to begin with that; but they much more quickly learn in English.

Lord Jerviswoode.—Are the parochial and public burdens very heavy in these districts?—I consider them to be so; the poor-rate particularly.

If they had to pay for many additional schools, you think it would be unjust to throw the whole burden upon the heritors?—I think it would be more than is generally borne by other subjects according to their means. I may state that two or three schools in the island of Harris, would not overtake the wants of half the population; and connected with that there is the expensive building of schoolhouses, and making provision for the teacher. There is great difficulty in getting rid of a bad teacher when you have him.

I suppose there are some parts of these districts where the population is so thin that you could scarcely expect them to reach a school?—I think that where thirty scholars could be guaranteed, a school ought to be granted, and that a grant might be made to corners which could not supply so many children, but which were entirely excluded from the possibility of attending any other school.

Would the system of itinerating teachers reach these districts?—That, certainly, would be better than want, but that is all I can say.

Mr. Cook.—When you say that the parochial schools are quite inefficient to

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meet the wants of the districts you have referred to, what is the cause of that? —The nature of the ground they have to travel,—the distances from school. For instance, my house in Harris, where the Free Church is, is twenty-six miles from the parish school.

Then it is from the nature of the country, and not from the management of the schools?—No, I am not referring to that at all.

When you said 200 schools would be required, did you state the district of country for which these would be needed?—From the north of Caithness and Sutherland to the Mull of Cantyre, and the islands besides.

You consider that district of the country to be very special?—I do, and the islands more than the mainland.

Would you have any special system for that district?—I consider that its necessities demand a special board; we cannot get people at a distance, who do not understand the state of the district, to suit themselves to the exigencies which are constantly occurring.

You think it could not be beneficially managed by any set of rules common to it and to the richer parts of the country?—I think not.

In talking of the local boards, you said one cause for having some extension of the present boards, was the non-residence of the heritors?—Supposing the election were vested in the heritors, I should consider it an objection on the score of there being many absentees.

Have they not resident factors?—Generally they have.

You are aware they can vote by proxy?—I am.

That would to some extent remove the objection?—No doubt it would.

Do you think the Gaelic language is dying out in the Highlands?—Rapidly. It is dying out as the people get access to the Low country.

And the disappearance of it will tend to facilitate education?—I think education must precede the disappearance of the language.

The Chairman.—Do you consider that an advantage or a disadvantage?—I consider it an advantage decidedly, that Gaelic should cease.

Mr. Black.—What proportion of the population speaks English in the islands? —I should think one in fifty would be about the proportion.

That state of matters must be a great obstacle to their getting employment in the Low country?—Yes.

Then you would consider that the establishment of schools, in which they would learn the English language, would be a great benefit to them, not only intellectually, but as enabling them to get occupation in the Low country?—Decidedly.

You said that if there were schools established for the Roman Catholics, you would have them to read the Scriptures: would you have any objection to their reading their own version of the Scriptures?—I would.

The Douay version?—Yes.

Have you ever looked into it?—Yes, I am pretty well acquainted with it.

Mr. Smith.—Are the 200 schools you speak of exclusive or inclusive of the present schools?—In addition to them.

The Chairman.—Have you anything further to state?—I should like to say that I perfectly agree with Mr. Ramsay in his statements as to female schools. From my own observation and knowledge, I think that female schools might be instituted at a very small expense, and that they might be itinerating schools with advantage. Girls in the Highlands can get sufficient education in the schools together with the boys; and a year, or two years at most, would suffice, in ordinary circumstances, to bring up young girls to the acquirements that are necessary in their station of life. These schools might itinerate from one place to another every two years.

To what extent has that itinerating system been successful, in your experience? —It has been successful in the Gaelic School Society.

In what does it fail?—It fails in this, that supposing a school continues for three years in my own locality, it has not finished the business of educating that generation in that locality, because it is taken away.

You think that is the main defect of it?—Yes.

You think, in regard to female schools, it could accomplish its object?—Yes.

Because the period is shorter?—Yes, in which they could get the additional education peculiar to their necessities.

Monday, 30th January 1865.

THE LORD ADVOCATE IN THE CHAIR.

REV. MR. RIGG,—*examined.*

Rev. Mr. Rigg.

The Chairman.—You are a Roman Catholic clergyman in this city?—Yes.

Have you any suggestion to make as to parochial schools?—None. I am not at all conversant with the working of the parochial schools.

What is your opinion of the Privy Council system of grants in aid?—I have corresponded more or less with the Privy Council ever since Catholics were allowed to participate in the grants.

When did that commence?—I don't remember the exact date, but it must be twelve or fourteen years now. The Edinburgh schools were almost the first examined after a Catholic inspector was appointed. We sent a memorial to Lord John Russell, requesting that Catholic schools might be allowed to participate; and immediately after an inspector was appointed the schools here were examined. I think they came third or fourth among the Catholic schools examined in Great Britain. When we applied first, we were told at that time that Catholic schools could not participate in the grant, but that, as soon as a change was made, and an inspector appointed, our schools would be examined.

The inspector was appointed before you participated in the grant?—Yes.

Have you anything to suggest as to the system upon which the grants are distributed, and particularly to the schools of your denomination?—As far as I was ever concerned, I felt perfectly satisfied with the way in which the grants were administered.

And you would not desire any change in that respect?—No, I would not.

To what extent does that system, as at present administered, overtake the Catholic population in Scotland?—I have no means of knowing how far it overtakes our Catholic population over the whole of Scotland. I can speak particularly only regarding Edinburgh and Perth. I was appointed to Edinburgh in 1838, to Perth in 1856, and again to Edinburgh a few weeks ago.

The Commissioners will be glad to have your views a little in detail as to the operation of the grants in these two places?—I consider, in the first place, that in Edinburgh the grants which we received were of very material benefit to us. They certainly raised the character of our schools, and increased the attendance, and they also increased the efficiency of our teachers.

Have you the means of giving us the number of your schools and the number attending your schools in Edinburgh and Perth?—I have come quite lately to Edinburgh, and cannot give the present numbers, though I could procure them.

The Commissioners would be obliged if you would send them.—I shall do so.

What is the state of matters in Perth?—When I went there in 1856 I found about forty or fifty Catholic children in attendance in a very miserable school. I applied to the Committee of Council for aid, and received a building grant. I built two schools, a juvenile school and an infant school, and the average attendance from the time the schools were opened has been from 200 to 250.

Do you find the infant school of material assistance to you?—Certainly.

You mean the 250 is the attendance in the two schools?—Yes.

Do you think that as regards Perth, that fairly overtakes the Catholic population?—I do.

There is nothing you would call destitution in Perth as regards the Catholics?—Certainly not.

In regard to Edinburgh, can you furnish us with similar details?—I am not so familiar with the present state of things in Edinburgh, because I only came to St. Mary's about three weeks ago, and I have not had time to look through the schools and become thoroughly acquainted with them.

Your general impression is that the Privy Council grants, on the whole, overtake the wants of the Catholic population?—I think they do, as far as could be expected. Of course, we have a very great number of extremely poor children, and it would be very difficult for any system entirely to overtake their wants;

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but I think that the system of the Committee of Council overtakes the wants of the greater number of the children who are above the class of paupers.

Have you anything to suggest on the subject of the practicability of a national system that should overtake all denominations?—So far as we are concerned, I think that would be very injurious to us.

You would rather be left upon your present footing?—Certainly.

And provided you were left on your present footing, I suppose you would take no part in the question whether, in regard to the other religious denominations, there should be a general system?—I believe not; I think that is the feeling of the bishops and the clergy generally, and of any lay persons who have turned their attention to the subject.

You would not be inclined to join in a national secular system?—No. I think that would be particularly injurious to our children, because many of them are extremely poor. Their parents are not able to afford them much religious instruction; and they require much more care from their teachers, in regard to religious instruction, than children of a better class, so that, unless religious instruction is provided for them in the schools, they would have very little chance of getting any.

I suppose we may take that to be the general opinion of the Catholics?—I think it may very safely be assumed to be so.

Do you know how Catholic education stands in Glasgow?—I know a little regarding Glasgow. They have availed themselves of the Privy Council grants in some instances; but I believe there is still a good deal to be done there. They have an immense number of extremely poor children there, and they have not been able to provide a sufficient number of schools, though the clergy and the laity also have exerted themselves very much.

Does it consist with your knowledge that Catholic children attend the parochial and the Free Church schools to any extent over the country?—I never found them doing so in Perth; nor did I find them doing so in Edinburgh. I don't think that that is generally the case in places where Catholic schools are established.

But where Catholic schools are not established?—In rural districts where there are no Catholic schools, Catholic children are forced to go to the parochial schools, or have no means of receiving education at all.

I suppose you would object on the grounds you mention, to the children attending these schools, and leaving at the hours set apart for religious instruction?—I think that would be found very unsatisfactory.

On the whole, then, your view is, and you think that is the view of the Roman Catholics generally, that you would prefer the continuance of the present system, so far as you are concerned?—I think so.

And that beyond that you have no objection or no suggestion to make in regard to a national system?—No.

But you clearly would object to a secular system?—Yes; I think that is the general feeling of the Catholic body in Scotland.

Mr. Ramsay.—Have you any accurate note of the number of persons of your persuasion, resident in Perth or around Perth, for which the schools you have mentioned are provided?—In Perth and neighbourhood I think there is a Catholic population of from 2000 to 2500; but a considerable number of these are at distances of three, four, or perhaps even five miles in a circle round Perth. I think in the town of Perth itself there will probably be 1900.

Are you aware whether some of the Catholic children attend some of the other schools in Perth?—I think there are probably not more than three or four whose parents thought it an advantage to send them to Sharp's Institution, or to the Seminary, on account of the children being rather of a superior class to the children attending what may be looked upon as the poor schools.

Have you had any cause to complain of the interference of the teachers with your children in the parochial schools or other schools?—We had no Catholic children, I think, at any of the parochial schools in Perth.

But in other parts of Scotland, have you ever heard complaints of that kind?—No. That was a thing that I had no means of knowing.

You mentioned that there had been an increase of 200 children attending your schools at Perth in consequence of their increased efficiency?—Yes.

Had these children not attended any of the ordinary schools in Perth?—The greater number had not. The infant school in particular was the means of bring-

ing in probably 100 children, who were so young that they attended no school at all before. The schools are in the centre of the Catholic population, and children of even four years of age can perfectly well attend. Rev. Mr. Rigg.

Is it your impression that the whole of the Catholic children in Perth are now receiving education?—All are receiving education, except those who are so poor that they are obliged to do something to earn their livelihood,—perhaps going about to sell firewood, or something of that kind; but there is ample provision for all children whose parents are able to send them to school.

What number are the schools fitted to accommodate?—From 250 to 300. They would be much crowded with 300.

Then the schools are hardly fitted to accommodate all the children of such a population as you have in Perth?—All that can attend just now, but there is ample ground for increasing the schools.

But the present schools are not fitted to accommodate the total Catholic children if they were all attending school?—I think they are.

You said there were only 250 attending; but there is a population of 2000 or 3000?—From 2000 to 2500 in Perth and the neighbourhood.

For whom these schools are available?—Yes; but children living at a distance of three or four miles would not be expected to attend. I don't think the Catholic population in Perth is over 1900.

That population should give you a greater number attending school than 250?—Yes, but when children are extremely poor, their attendance is never so good as when they are in better circumstances.

And if there was a demand for better accommodation, you think it would be provided?—Certainly.

Sir J. Fergusson.—Do you know from others how far the education of Catholics is provided for in the poor Highland districts?—I have very little means of knowing anything of the Highlands.

Do you consider that the system of grants in aid, as hitherto furnished by the Privy Council, is fair to poor localities which are unable to furnish the local *quota* required by the Privy Council?—No doubt poor localities labour under a very great disadvantage.

So that the approval you express of the system hitherto pursued by the Privy Council, refers to places which in your knowledge are able to furnish the local *quota?*—I am aware that the Committee of Council had very great difficulty in forming their regulations, because if they had given assistance to very poor districts without something being done on their part, it was supposed that the grants might be abused. That was the reason for framing the regulations as they have been framed.

But supposing a district with a considerable population, unable to furnish a local subscription, you would not consider the present system satisfactory?—There would certainly be a difficulty, but I could hardly expect the regulations to be altered merely to suit a very few.

Are there any Protestant children, in your knowledge, attending the Catholic schools?—None.

A number of Catholic children attend the ragged schools?—Yes.

Have you had any reason to complain of religious education of which you would not approve, being given to the Catholic children attending these schools?—Do you speak of the ragged schools known as the Original Ragged Schools, or the United Industrial Schools?

These or any others?—I knew pretty well about the Original Ragged School when I was here, because I made a number of applications regarding it.

But within your knowledge, have complaints been made of Catholic children being required to attend religious teaching of which their Church could not approve?—It was understood, from the original establishment of the Original Ragged Schools, that Catholic children going there must receive Protestant religious instruction; and a short time after the school was established, several of the parents having spoken to me on the subject, I called and told the superintendent that, with his permission, I would procure a respectable person to take the Catholic children to the Catholic chapel on Sundays, and to return with them to the school, but he told me that, to be candid, that was not wished by the managers; and, of course, I made no further application.

Then, in fact, is it the case that up to this time, the Catholic children attend-

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ing the Ragged School are obliged to receive Protestant religious instruction?—I understand so. I have not made any particular inquiry lately, nor have I had any distinct information on the subject; but I have always understood that that was a condition of the Original Ragged Schools, and I think that was pretty distinctly announced in public.

The Chairman.—As to the United Industrial School, how does it stand?—The United Industrial School is quite satisfactory.

Sir J. Fergusson.—What fees are paid by the children in the Catholic schools?—The rate of fees is generally very low—I think seldom above 2d. per week, and for infant children not more than 1d. per week.

I suppose a higher rate is paid if instruction is desired in higher branches of education, which the master can give?—I think it is very rarely that the fees are raised. It is not desired by the Committee of Council that the fees should be increased; and I never increased them in any schools under my management.

Are any complaints made now by your Church, as to Catholic children in workhouses being educated in a manner calculated to proselytize them?—I know there have been complaints, but I could not say from personal knowledge to what extent these complaints have been well founded. I believe the Board of Supervision has done everything in its power to remedy any evil of that kind. There may be instances of officials who are not perfectly fair; but I think that when anything of that kind has been discovered, the Board of Supervision has done its utmost to prevent any unfair dealing with Catholic children. That is my impression.

Mr. Black.—You said that the schools in Perth were very much increased after they got the grants in aid?—Yes.

Before they got the grants in aid, do you know whether they had any infant schools in Perth?—There were no Catholic infant schools; there was one Protestant infant school.

How many attended the Catholic school after it was instituted?—Generally from 100 to 130.

Then that increase which took place was in a great measure owing to the number of children sent to the infant school?—Yes.

How long do the Catholic children generally continue in the more advanced schools?—As a rule, they leave the juvenile schools before they are twelve years of age. Owing to the poverty of the parents, the children are generally sent to some employment before they are twelve years of age.

Have you ever ascertained whether, when they leave at that age, they have received such an amount of education as to enable them to read with pleasure and satisfaction any ordinary book?—I knew pretty well, from going to the school frequently, what the state of their education was. Children who had entered the infant school at four or five years of age, by the time they were eleven or twelve, could read very fairly, and could write a very good hand, and they knew the first rules of arithmetic tolerably well. If they continued in the infant school, and then passed into the juvenile school, they were tolerably well educated before they were twelve years of age.

In any of those rural districts where there might happen to be very few Roman Catholic children, do you suppose there would be any great objection to their attending either the parish or any other school, if they were permitted to leave while the religious instruction was being given?—Where there are no Catholic schools, when application has been made to me by parents in such cases, and that application has been frequently made, I always desired them to send their children to school, but to intimate to the teacher that they were Catholic children, and to request the teacher merely to give them a secular education, and not to teach them the Shorter Catechism, or to interfere with them on religious matters; and I generally found that that was attended to. In some few instances I found that the Shorter Catechism was insisted on, but not generally.

Would you not approve of the parents sending their children to these, in such districts, without asking the permission of the priest?—They frequently did. I would never have thought of finding fault with a Catholic parent for sending his children to such schools, when he had no other means of educating them.

But supposing there was a system instituted in such districts where there were small numbers of Roman Catholic children, and arrangements made by which they could receive secular instruction only, do you suppose that if such a general

system was established, there would be any objection from your body to it?—I think things would stand exactly as they stand at present. Catholic children would probably be sent there if there were no other means of receiving education; but if education could be provided for them at a Catholic school, of course they would be sent there. Rev. Mr. Rigg.

Supposing a system proposed, and that that formed part of it, would it be likely that any objection would be raised by your body to such a system?—If the grants in aid are continued to us on the present footing, we would not interfere.

Lord Mure.—Have you ever considered the question, how far it would be desirable to extend the rules of the Factory Act, making an indirect compulsory system of education to rural districts and branches of trade other than those to which they are at present applicable?—I have never considered the question.

You don't know how far that might be calculated to overtake that portion of your population which does not come within the precincts of your schools?—I think it could have very little effect on them. They are generally poor children, not attending any school, but trying to earn their livelihood by doing any little thing by which they can gain a few pence.

Mr. Davidson.—You have said that a national system would be injurious to your body,—would you explain in what respect it would be injurious?—I think it would be injurious in this way, that Catholics would not join in such a system if they could establish a system for themselves; that all Catholics who were in a position to establish Catholic schools, totally independent of the Government, would do so; and that we should then be obliged to struggle with very great difficulties, as we had to do before we were in connexion with the Committee of Council. At that time we had no properly trained teachers, and very few proper school buildings; and I think the greater number of the good teachers that we now have are owing to the training which they have received through the Normal Schools. The character of the schools which have been established has also been very materially raised by the aid which they have received from the Committee of Council. Were the grants withdrawn we should have no means of providing teachers, and only those Catholic children who were of the better class could be provided for, while many of the poor would receive very little education.

I was not speaking in reference to the Privy Council grants, but supposing a system of national education established, by which the education of the entire population was overtaken, I wanted to know how such a system would be injurious to you?—Because I don't think we could join in it.

Do you mean in respect of religion?—Yes.

But if that system provided for the religious education of Catholics in some manner, I suppose you would not object to it?—But I don't see any means by which such provision could be made.

You have nothing to suggest to us on that point?—I don't think it is possible in the present state of this country.

By way of separate religious education, such as is given in the United Industrial School?—But that is quite an exceptional case. It was started by persons of liberality, and of honour, who put themselves in opposition to what they considered unfair dealing with Catholic children.

But suppose such a system to be introduced as would give Catholic children not merely secular education, but religious education, I suppose you would have no objection to a national system then?—But I have no hopes of seeing that.

Suppose the religious education of Catholics was as well taken care of as it is in the United Industrial School, you would have no objection to such a national system?—I don't think any person would object to such a system, provided the same fairness should be secured over the whole country, but that I conceive to be impossible.

Would you be in favour of the Irish system?—Certainly not. I think all the Irish Roman Catholics desire most earnestly to obtain the system which we have in Scotland.

To be thrown quite free?—To have the denominational system.

Supposing the denominational system were to continue as it is at present, do you see any way for the Government inspector being attached to each denomination?—I think it is very desirable that Roman Catholics should have an inspector of their own.

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Why so?—Because he knows the system on which the teachers have been educated, and although religious subjects do not come directly under his inspection, I think there are a great number of cases in which the interference of inspectors of a different religion might not be agreeable.

Would it not be possible for any man of intelligence and honesty to discharge the duties of inspector, though not connected with a particular denomination?—I have no doubt he might; but I think one of the promises given when Catholic schools were admitted to participate in the grants, was, that there should be a Catholic inspector.

But I wanted to know whether you saw any necessity for that system being continued?—It is a thing I have not thought of particularly.

Is any number of your body not satisfied with the present system of the Privy Council grants?—I think that, generally, any who have been in communication with the Committee of Council, have been satisfied with the way in which the grants have been administered; though probably in many poor districts they have thought that it would be an advantage if the rules could be so framed as to allow them to participate in the grant without contributing very much to meet it.

Lord Ardmillan.—I understand that where there is a sufficient Roman Catholic population to have a strong school, you would desire the continuance of the denominational grant?—Yes.

But that where the numbers are so small that you could not form a school, you would then desire the protection of a clause, or of an honest understanding, that no religious instruction should be given to Catholic children of which you would disapprove,—that they should be permitted to be exempted from the religious instruction where the circumstances did not enable you to set up a school for yourselves?—I don't know if it would be necessary to make any change in that way. I think teachers of intelligence and honour do generally not interfere with the Catholic children. I don't know that that would be of very great consequence.

But I understand that, whether by a clause in the Statute, or by universal recognition of the propriety of it, you would derive that protection wherever you have not strength enough of population to support a school for yourselves?—That might be an advantage.

It would afford apparently the only means in these districts of giving ordinary instruction to Catholics?—Certainly it would.

But in places where you could have a strong school of your own, you would desire the denominational system to be continued?—Certainly.

And you would prefer that to taking your chance of having a majority in a local board, for instance, to create such a school?—Certainly.

There are two or three parishes in Scotland in which there are enough of Roman Catholics to be quite certain of such a majority?—Yes; but still I should think that there they would be perfectly content with the present system.

The Chairman.—Do you approve of the principle of the United Industrial School, that principle being this,—that secular education is given to all the children, and religious instruction by clergymen of their own persuasion: do you approve of that principle, as a principle?—In this country.

Take it in Ireland, in a Catholic country: according to your own opinions, do you think it desirable that you should have a general school for secular instruction, and clergymen of all denominations to teach the children religion?—I do not. I consider it a very advantageous arrangement here, considering the way in which so many of our poor children are circumstanced; but in Catholic countries I should certainly not consider it the most desirable arrangement.

Who is your Catholic inspector just now?—Mr. Lynch is the inspector for this part of Scotland.

When was he appointed?—He must have held office two or three years.

Who was your first inspector?—Mr. Marshall; he resigned several years ago. There are now three inspectors.

Have you had any controversies with the Privy Council about the grants?—I never had any.

And you don't know that there have been any?—No; I have uniformly found the officials of the Committee of Council extremely courteous in any dealings I have had with them.

You have nothing to complain of in regard to them?—Nothing. I received a

building grant from them for Perth, and I have constantly received annual grants in aid, and I never had any reason to complain of them. Rev. Mr. Rigg.

Mr. Davidson.—Is there anybody that corresponds with the Privy Council?—No; but we are in connexion with a school committee in England, of which Mr. Langdale is the chairman; two representatives—one a lay gentleman, and the other a clergyman—from Glasgow and Edinburgh attend their annual meetings in London.

Mr. Black.—Those gentlemen who established the Industrial School had it in view to make an experiment whether, in the event of a national system of education being adopted, it would be possible to give separate religious instruction to children belonging to the different denominations; you have seen the experiment tried in the Industrial School: now, do you say that you consider that system has failed, and that we have no chance of carrying such a system as that?—I do not consider that the system has failed in the Industrial School. I believe that it has succeeded admirably; but I believe the Industrial School to be a perfectly exceptional case, because the character of the gentlemen was a sufficient guarantee that everything would be managed fairly, but we could not expect that over the whole of Scotland.

And you could not trust the people of Scotland to manage their schools if they were conducted in the same way?—I don't like to express distrust of the public; but we have had so many difficulties that I fear such a system could not be carried out.

Mr. Ramsay.—Do you furnish gratuitous instruction to any of the poorer children in Perth?—We do; we never exclude any child on the ground of poverty.

If you were placed in a rural parish where there were very few Catholics, would you recommend the parents in such cases to take advantage of the parochial or other Protestant schools in the parish, rather than that they should want education altogether?—Certainly.

As their clergyman, you would be prepared to recommend that?—I have always done so, because I have never met with any attempts at proselytism in rural schools.

JOSEPH DUNDAS, Esq.,—*examined.*

The Chairman.—You are proprietor of Carron Hall in Stirlingshire?—I am. J. Dundas.

You have attended to the subject of education?—Yes, I have for the last twenty years in my own district.

What is your opinion of the operation of the existing parochial schools, and Privy Council system of grants in aid, in providing education in Scotland for that portion of the community for whom the parish schools were originally set on foot; and as to whether the combined operation of these systems is sufficient to meet the requirements in this respect of the different parts of the country?—In my district it certainly is. I don't think that in the parish of Larbert, with which I am principally connected, a parish of about 5000 inhabitants, there is a single child of the age of going to school which is not at school.

Can you only speak in regard to your own neighbourhood, or have you any views or opinions upon the operation of the system generally?—I am connected with three parishes, Dunipace, Larbert, and Bothkennar, and in all these parishes I think I may say that the system is quite sufficient.

And not more than sufficient?—And not more than sufficient.

What is your opinion in regard to the management of parish schools?—I think the management is capital. I have been in the habit of attending the annual examinations when the schools were examined by the Committee of Presbytery, and these examinations have been conducted most thoroughly, carefully, and satisfactorily.

Have you found that the Privy Council system of grants has tended to the establishment of unnecessary schools?—Certainly not.

In regard to the Highland and remote districts, have you any experience on that subject?—No.

What is your view of the state of a populous district like Falkirk, with reference to education?—In Falkirk I think the system is very good. I cannot speak to whether every child of a suitable age is at school or not, because there is an

J. Dundas. immense number who go to no school at all, and whom our ragged school is intended to embrace.

What is the principle of that school?—It is to admit as many children as we can afford to take in, who are not going to any school, and whose parents will not send them to any school. We take about 50 children, but I should say that 150 would be nearer the mark, could we take them in. We feed them and clothe them.

How do you manage their religious instruction?—The religious instruction is conducted by the master on the same principle as in the parish schools. The Bible is taught. No questions are asked as to the sect to which the child belongs.

Do the Roman Catholics come there?—They do, but some have been removed. We never ask on admitting a child to what sect it belongs.

Have those children to whom you refer been removed by the parents?—Removed by the parents at the instance of the priest.

Do you think the parents, if left to themselves, would send their children?—Certainly. Any children that have been removed on account of their being Roman Catholics, have been removed at the instigation of the priest.

That you know?—That I know.

In regard to the parish schools, do you find that children of all denominations attend the parish schools in your parish?—Yes, I don't think the denominational question has much effect on the parents.

Are there any Free Church schools in these parishes?—Yes, there is a Free Church school in Larbert and one in Bothkennar, in the village of Carronshore.

Are they well attended?—They do not happen to be well attended,—not from prejudice, but because the schoolmasters are not so efficient as the others.

You think the parents choose the best master?—Yes; in our parish of Larbert, from the registrar's account, there are 98 Free Church children attending the Established Church schools.

I suppose your schools are very well manned?—Very well; the parish schoolmaster is a very good man; he has 200 children under his charge.

What is his name?—Carsewell.

In regard to some plan of education of a more uniform and national character, based on an extension of the existing parochial system, have you any suggestions to make to the Commission?—I don't see the object of any change whatever.

You think the system as it stands works perfectly well?—It works remarkably well; nor can I imagine any system by which the examinations could be conducted so well as they are at present.

By the Presbytery?—By the Presbytery; and the examinations are real ones, taking a great many hours.

Do you think the Free Church schools of which you have spoken, are required in these two parishes?—I think they are of advantage certainly.

Are they near the parish schools?—The Larbert Free Church school is within 300 or 400 yards of the parish school; the Carronshore school about the same distance.

Do you think the parish school could not overtake the children that attend the Free Church schools?—Certainly not; not in our district. The Free Church schoolmaster has a small attendance; he is not a very efficient man. The schoolmistress has a very large attendance, principally infants.

Is that the only infant school in the parish?—No, it is not; there are several schools in which small children are admitted.

Are there infant schools connected with the parish schools?—There are.

What do you find the operation of the infant school to be,—is it beneficial?—I think that is open to doubt. In the school at Stenhouse Muir, kept by the Free Church schoolmistress, there is an immense number of babies almost, and I think they are sent by their parents to get them out of the way. They pay 1d. a week, and I can't see the great advantage of it. The room is choke full of the children, and very badly ventilated. I think the children would be better out of it.

How long do they stay at the infant school?—I cannot be positive as to the hours. I think it is from nine to twelve o'clock, and from two to four.

You take considerable interest in these schools, I suppose?—Yes.

Do the other heritors do the same?—I think I take more interest than any of the others.

Who are the other heritors in Larbert?—Major Cumming Bruce, non-resident,

Sir William Bruce, Mrs. Stirling of Glenbervie, resident, and Mr. Chalmers Stirling, non-resident, but represented by his father, Major Chalmers. J. Dundas.

I presume you are the heritor who takes the main charge?—I think I may say so.

In the parish schools in your parish do any of the children go direct to the University?—A great majority of the children don't remain at school after they are twelve years of age. My opinion is, that if they learn reading, writing, and arithmetic by the time they are twelve years of age, they do very well. In addition, there are night schools. In fact, in whatever district of the parish young men desire to have a night school, such a school exists, and the parochial schoolmasters are quite qualified to give instruction. At the annual examinations the children are examined in arithmetic as far as vulgar fractions and algebra.

Have you compared the principles of the examinations under the Revised Code with the examinations under the former Code?—Yes; and I am inclined to think that the proposed change in the examinations by the New Code would be rather an advantage. I think that the grant resting on the proficiency of the children is a very good plan indeed.

You think it is a guarantee that the elementary branches are properly taught?—Certainly. With reference to our two principal parish schools, I think any twenty children, at the age of twelve or thirteen, would stand comparison with any gentleman's children in any of our Scotch schools at that age.

In regard to your schoolmasters, have you had them for a long time?—Yes, for some years.

Have you found any difficulty arising from the tenure of their office, and the difficulty of getting rid of them?—In our parish school of Larbert we have had to get rid of two masters within the last sixteen years; both were very clever men, but both took to drinking.

How did you accomplish it?—It was principally done by the agency of the parish minister. I was chairman of the heritors' meeting on both occasions when they were dismissed, but it was done through the mediation of the parish minister, and the schoolmasters gave in their resignation.

You have not attempted to do it by the operation of the law?—No. In the first case we offered the teacher a salary; he had been thirty years schoolmaster, and we gave him a retiring allowance.

Have you any suggestions to make on the subject of the law as it stands at present on that matter?—I think greater powers of dismissal might very safely be vested in the heritors.

Do you think you would get as good men on these terms?—I am sure we would. I don't think that has any influence on the appointment of schoolmasters.

Mr. Dunlop.—How many schools have you altogether in Larbert?—Eight, exclusive of the Free Church school; nine, including the Free Church school.

How many are parish and side schools?—There is the parish school; there is a large school at Carronshore; and one at Larbert, which is a sessional school.

Are the others supported by voluntary contributions and Government grants?—Two of the schools are connected with the Carron Company, and one of them has only £10 of a private donation. These schools are on a different footing altogether; the schoolmaster is elected by the parents of the children.

How does that do?—Very badly indeed.

Do they quarrel, or select bad men?—They select men not on account of their powers as teachers, but on account of their good fellowship.

Is it by an overhead vote, or is there a committee?—I think a committee is appointed, and that committee, I understand, is in the habit of dining with the candidate for the office previous to the day of election.

How many of these schools are aided by Government grant?—Four, exclusive of the Free Church school.

And how many children attend them?—There are 827 children on the roll, and there were present at the inspection of the registrar, 658.

Mr. Ramsay.—You approve of giving greater power for the dismissal of teachers: do you think the teachers should be dismissed at the pleasure of those who appoint them, irrespective of cause shown?—No; I am not prepared to say what would be the best plan; but I think that greater power of getting rid of a man who can be easily proved to be a disreputable person,—a drunkard, for instance,—should be vested in the heritors.

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Would you not think it desirable to have the power of dismissing a person in respect of inefficiency as a teacher?—Yes; that ought to be a cause certainly.

But you have not considered in what way that could best be accomplished?—No; I have not. I don't think that giving greater powers to the heritors would at all lower the class of schoolmasters.

Sir J. Fergusson.—Do you think that infant schools would be beneficial if there was a limitation of the age at which the children should be admitted?—I do not think so.

Don't you think they relieve the parish school of children who are very cumbrous to the teacher?—So far they do; but they chiefly relieve the mother of the trouble of taking charge of them.

Suppose there was a limitation to four years old?—Well, that might do. In the parish we have two schoolmistresses, who teach girls, and have a class of children of five or six years old.

How many children do you consider that a master can efficiently teach?—Our parish schoolmaster, who has 200 children, has a schoolmistress and four pupil-teachers. It depends very much on the power of the master.

But even with that strength of assistance, is it as much as he can manage?—He does manage to instruct them very well with that assistance.

Would you prefer that there should be several schools in a parish, where the population is large, or that there should be one large school, with a superior master and paid assistants?—It depends on the population. In a large parish like ours, which extends over a considerable area, it is much better to have several schools.

But where there is a population sufficient to support two schools, would you prefer to have two schools, or a better class of master, with assistants?—I think I would have two schools, on the principle of competition.

Mr. Black.—Don't you think the master would receive greater assistance from one assistant teacher, than from four pupil-teachers?—That is a matter of degree. I am not wedded to the pupil-teacher system. I am rather in favour of assistant masters.

The Chairman.—Is there anything farther which you wish to state to the Commissioners?—It seemed to be embodied in some of the heads of examination that it was possible that other people might be concerned in the management of the schools besides the heritors. I should not like to see any change of that sort. I don't think that a committee of the parochial board is at all likely to be qualified either to examine these schools or to superintend them.

And you don't think that a union of representatives from the parochial board, with the heritors, would be beneficial either?—No; I do not think so.

In your case, it would be mainly a union with yourself; that is to say, I presume, the other heritors don't practically take much superintendence of the schools?—No. It might be possible to have such a committee appointed by the ratepayers, as we have in the parochial board; but I should not like to see that.

Are there not in the parish of Larbert, or in that neighbourhood, many persons who, though they have not a qualification to vote for a schoolmaster, would really be quite qualified to do so, from their position?—No, I think not. The schoolmaster being of the same class as themselves, they would be likely to be influenced by other motives than mere efficiency.

What other motives?—Private friendship, and doing the popular thing.

Do you think the heritors are superior to that?—I think they are.

Are the schools of the Carron Company numerously attended?—Yes, they are in a very populous neighbourhood. One of them has 72 on the roll, and the other has 79.

Have you examined into the efficiency of the education given in these schools?—Yes, I have been at the examination.

How do they stand?—They are very inferior to the parish schools. They are also examined by the Presbytery.

Have the Presbytery reported favourably or unfavourably of them?—Unfavourably.

Are they maintained by the Carron Company?—The Carron Company give a room.

How is the rest made up?—In one case, the schoolmaster depends entirely on the fees, and in another case, a private individual gives £10 a year.

Who is that?—Mrs. Cumming Bruce. J. Dundas.

Do you think the inferiority of the school arises from the inferiority of the master?—I am sure it does.

Can you tell me how the Free Church schoolmasters stand: are they good?—The one at Stenhouse Muir is certainly not a successful master; the other, at the Bothkennar side of Carronshore, is a worthy man, but he is not popular. The Larbert schoolmaster is not a popular master, and the attendance is very small, I understand; but I cannot give details, because both of these were instructed not to admit the registrar to take down the number of the children.

You mean in regard to our inquiries?—Yes.

Both Larbert and Carronshore?—Yes.

Who instructed them?—I believe the Free Church clergyman.

What is the name of the schoolmaster?—Mr. Agnew is the Larbert schoolmaster; and the reason given by him was, that the Deacons' Court objected to the registrar being admitted.

The registrar, I presume, was the parish schoolmaster?—No, he is the inspector of the poor.

Was there any peculiar personal feeling in these parishes about the matter?—I don't think so.

Mr. Ramsay.—You are an heritor in Bothkennar, Dunipace, and Larbert parishes?—Yes.

Is the attendance at school equal in these three parishes?—I am not so well acquainted with Dunipace, as it is very remote from me. It is very good in Bothkennar.

What number of scholars is there in Bothkennar?—I should say there are 150.

What is the population of the parish?—1500.

Do you reckon 150 a sufficient number to attend school, out of a population of 1500?—No; but the school at Carronshore is on the confines of Bothkennar, and a great many children who belong to that parish attend the school at Carronshore; also part of the town of Grangemouth is in Bothkennar parish.

The Chairman.—Your general opinion is that the heritors, having no personal object to serve, are, on the whole, the best body in Scotland to elect the master?—Certainly.

Sir J. Fergusson.—It has frequently been suggested that, if with the heritors were associated representatives of the middle classes, it would tend to interest them in the education of their localities: do you think that would have a good effect?—I don't think so. The parents of the children show quite sufficient interest at the annual examinations; the school is always crowded.

Supposing representatives of the parochial board, to a number not greater than that of the heritors, were associated with them, would that not tend to give the classes represented by the parochial board, a greater interest in the cause of education?—I don't think so. I think the interest of parents in the cause of education, arises from wishing their children to be educated.

The Chairman.—Do you generally find that they do wish that?—Uniformly.

Lord Ardmillan.—Do you not think that that interest and desire to have a good education for their children would be some guarantee for their giving an honest and intelligent vote in the election of a teacher?—It has not proved so in the two schools in my district where the parents have the election of the teacher.

You would rather trust to the vote of an absent heritor, who had no interest in the child, and might belong to any denomination?—I would; but you are putting an extreme case.

Mr. Dunlop.—Suppose circumstances rendered your residence on your property impossible, how would the care of the heritors over the schools be secured?—Some heritors are resident, others would send their representatives. The real care of the school is in the clergyman, as it is in England. He is the person who takes the greatest interest, and who visits the school most frequently.

Sir J. Fergusson.—Don't you think that in the absence of the heritors, some of the most intelligent of the farmers might take their place?—I think they would be unwilling to take the trouble.

The Chairman.—Have you anything else to state to the Commissioners?—One

J. Dundas. of the heads of examination is, Whether religious instruction should be provided by Parliament?—I think not.

I presume you find a wish for religious instruction among the parents?—Yes; but I think it is not desirable that Parliament should make any specific enactment on the subject.

Lord Mure.—Do you disapprove of the present enactment in that respect?—No, I think the present enactment is capital.

Suppose that, instead of grants in aid from the Privy Council, there was to be an arrangement by which a certain sum of money should be put at the disposal of a committee, to be apportioned to the districts requiring it, with an additional assessment, all regulated by Parliament, would it not, in your view, be desirable that the Act of Parliament should contain the same enactment as regards religious teaching, or something equivalent to it, as you find in the existing Act?—I should not like to see any change in the religious teaching.

But supposing there should be an extension such as I have pointed at just now, would you leave the matter of religious education alone, or would you embody in the Act similar provisions to those in the existing law?—I should like to see the present system continued.

Would it not be necessary, in order to have it continued, that the new Act of Parliament should contain some provision to that effect?—I presume it would.

Saturday, 4th February 1865.

MR. DUNLOP IN THE CHAIR.

MR. W. J. MENZIES,—*examined.*

W. J. Menzies. *The Chairman.*—You are inspector of the schools of the Society in Scotland for Propagating Christian Knowledge?—Yes.

That is a Society connected with the Established Church?—It is a Society which was instituted in 1709, for the purpose of promoting religious knowledge in the Highlands and Islands of Scotland, and which, subsequent to 1843, was found by the Court so inseparably connected with the Established Church, that all its office-bearers ought to be members of the Established Church.

From what source is the revenue derived?—The revenue consists of about £7000 a year, and is derived principally from the rents of landed estate, and the interest of money, both of which have been bequeathed to the Society for the purposes for which it is constituted.

Is there not an annual gift from the Sovereign?—No; the royal bounty is a separate thing altogether; it goes to support the chaplains and missionaries, and is managed by the General Assembly of the Church of Scotland.

How many schools have you under your charge?—The Society, I may explain, consists of two parts: the first portion of it was constituted with a view of supplying the means of education, and of religion, in destitute parts of the Highlands; and the second patent, as it was called, was instituted some time afterwards, for the purpose of supplying the means of teaching girls throughout the Highlands the industrial branches of education.

Of what date is the second patent?—I have not got the date, but it was not very long after the first. Upon the first patent, upon which only male teachers are appointed, there are at present 132 schools.

Mr. Davidson.—What is the date of it?—The first patent is dated 1709. There are at present 132 schools supported principally by the Society, and they are almost without exception north of the Forth. They are situated in the Highlands of Perthshire, in Inverness-shire, Argyleshire, Sutherland, Caithness, Orkney and Shetland, and in the Western Islands.

The Chairman.—What other sources of revenue has the Society?—The teachers have other sources of emolument. The Society gives a grant to a school; they require that the heritors shall provide the schoolhouse, and the necessary accommodation for the teacher, and that they shall also give him a croft and a cow's

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grass. It is also a regulation that they shall cut his peats. Of late years, the directors have been trying to get the resident heritors to make supplemental grants, with a view of establishing more schools, and of relieving the Society to a certain extent. The grant which the Society generally give to a male school at present is £20. We hope very soon to be able to raise it; it was raised some years ago from £18 to £20, and we hope before two or three years to be able to raise it to £25.

What would you calculate the teacher's other emoluments at, on an average?—I find that the average emoluments in the whole 132 schools are £32; but in forty of them the emoluments don't exceed £25 each. Of the whole male schools in operation in Skye and in the Long Island, the average emoluments last year was only £22, and in Shetland, exclusive of house and croft, the average of fifteen schools I find is £25. During the half-year from October 1863 to April 1864, the total number of scholars enrolled in the schools under the first patent, was 6884, averaging 56 to each school; the other half-year's attendance was not quite so large; it is never so large in summer; it was 6531.

Do any of your schools get grants in aid from the Government?—Several of them do; we have been trying to encourage that as much as possible.

Does the average which you stated include the Government grant?—The average which I have taken includes the emoluments of the teachers from every source. When I was appointed, two years ago, I prepared a form of a return; and the teachers now return every half-year a statement of the number of children enrolled, those who attend less than 50 days, those who attend more than 50 and less than 100 days, and of the number who attend upwards of 100 days; also a statement of the numbers learning the different branches, and of the total emoluments of the teachers, and of the books supplied to them to be sold. That statement is compared by the minister of the parish with the return from which it is made up, and is authenticated by him as correct; and it is upon receiving this that the salary is paid.

On applying to Government for augmentation grants, do they take into consideration the salary as being a contribution, in aid of which they give the grant?—They do. I know several cases in which that has been done. The money which belongs to the Society is not specially mortified for the purposes of education, and it is not limited as to the locality in which it is to be applied; and upon these grounds I understand the Privy Council hold that it is a voluntary grant which entitles them to take that into account in estimating what the grant from the Privy Council should be.

Are many of your masters certificated, so as to be in a position to get the grant?—I have not the means of stating how many; but in the districts which are most opulent, the teachers are generally certificated, and in the poorer districts, they are generally uncertificated. Taking the statistics for the winter half-year, I find that 30 per cent. of the children enrolled attend fifty days, or one-third of the time; 45 per cent. attend more than one-third of the time, and less than two-thirds; and 25 per cent. attend upwards of two-thirds of the time; 40 per cent. of the children enrolled are entered as learning writing, 20 per cent. grammar, and 30 per cent. geography and arithmetic. The regulations of the Society prohibit the teaching of Latin.

Can you give us corresponding information as to the schools under the second patent?—There are 118 schools upon the second patent, of which 48 are entirely sewing schools, and principally connected with other schools supported by the Society, by the General Association, or the parish schools, in some cases.

Are these generally in the same district with the other schools?—Yes; as to the forty-eight which are entirely sewing schools, and connected with the other schools, the average emoluments were £8, 16s. 9d. The Society, as a general rule, give to the sewing teacher a salary of £8, and upon the second patent, generally, the salary is not above £8; the average number enrolled in each sewing school during the half-year was eighteen. Of the seventy other schools in which other branches are taught, the average number enrolled is forty-five, and the average emoluments £19, 5s. 9d.

Lord Belhaven.—Where do you get the teachers generally?—They are generally found in the districts.

Have you any difficulty in getting them?—There is very great difficulty in getting teachers who are at all qualified to get the Government grant, particularly

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in the Gaëlic-speaking districts. That arises from various causes: there are not many students who speak Gaelic who come to the Normal School here; they cannot afford to come; and we have had it under contemplation to educate a certain number of Gaelic-speaking students every year, with a view to fill these schools by and bye.

The Chairman.—Do any of the female teachers get augmentation grants?—Yes, several of them; and in some cases the emoluments of the female teachers amount to as much as £52, and even £60, taking all things into account.

Where may such a case be?—There is a female school at Rothes in Morayshire, and the total emoluments of which last year were £52, 19s. 6d.; and there is a school at Tullynessle, the emoluments of which appear to have been £46, 10s. 6d.; and there is a school in the parish of Ellon, the emoluments of which are £49, 18s. 4d.

Are you in the habit, when a district becomes tolerably rich and well inhabited, of dropping your schools and transferring them to more destitute districts, or do you always keep up the school?—I have not been long connected with the Society, but I understand such is the practice. I lately recommended the Society to drop their connexion with all the schools in Aberdeen, Banff, and Morayshire, which are nineteen in number, as it appeared that these schools were otherwise suitably provided for, and they did not appear to me to have any particular claim upon the Society. They were, with one exception, situated in parishes in which the heritors supported only one parochial school, and therefore, if a second school were required, it appeared to me that it ought to be rather a burden on the heritors than on the Society.

You were supplying, you thought, what the heritors ought to have done in fulfilment of their legal obligations?—Yes; it was merely put in the form of a recommendation from me for the attention of the Directors, and no action has yet been taken upon it.

Then your duty is to visit all these schools and inspect them?—I was appointed two years ago, on the understanding that the whole schools connected with the Society were to be visited once every three years. From the nature of the reports I have been obliged to give in, the Society have come to think that it might be advisable to have a more frequent inspection, and I have lately resigned the office which I held, as not so much an object to hold now, and I had no desire to stand in the way of a better arrangement for the Society.

What is your opinion of the manner in which the instruction is carried on generally in these schools?—One would require to speak of a separate district in that respect; but taking the most destitute districts upon the west coast,—Skye, the Hebrides, and the west coast of Sutherland,—the education is certainly of a very low character indeed. There are several circumstances which cause this:—1*st*, The nature of the accommodation in the schoolhouses; it is very difficult to get the heritors to comply with the requirements of the Society, and provide schoolhouses which can be taken as at all suitable. In large parishes, of course, it becomes a very heavy burden upon them to do so. I may state one or two instances of this. The parish of Ardnamurchan, on the west coast of Argyleshire, is ninety miles long, and although the population is, I believe, under 5000, it would require an establishment of fifteen schools, in order to give all the children residing in the parish the means of education. The heritors are bound to support only one school in this parish.

How many are there in that parish, including your own?—I cannot state that.

How many have you in that parish?—We support three schools in that parish; it is divided into *quoad sacra* and Parliamentary parishes; and I believe there are also two Parliamentary schools in the parish. Then I may mention also the parish of North Uist, which is thirty miles long by fourteen broad; there is one parish school in it, and thirteen others would be required to give every child the means of education. South Uist is thirty-eight miles long; there is only one parochial school in it, and eleven schools would be required. I take my information from rather an old source, but it is good enough as an example of the state of matters, and to show the inadequacy of the parochial system. Then it is a heavy burden on the heritors in such parishes to supply so many schools, and there is therefore very great difficulty—especially considering that the other burdens upon them, in the shape of poor's-rates, etc., are very heavy—to get them to supply the necessary accommodation.

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You find considerable difficulty just now in getting the heritors to comply with your limited requirements?—Very great difficulty. I can give you one or two accounts of the nature of the accommodation in schools which I have lately visited; and, first, as to a school in the west of Argyleshire: "The state of the schoolhouse is still deplorable, a small building on the side of a hill, little attempt to level the floor, a fire in the centre of the room, and a hole in the roof for the smoke to escape; the roof seems falling to pieces, and the windows are broken."

Are you obliged to pass such schools as that?—These schools are already in existence, and the only remedy we have in such a case is to threaten to withdraw the salary.

Have you ever enforced such a threat?—Yes; we have withdrawn the salary in several cases. The report goes on—"Even worse is the teacher's dwelling-house; the roof does not protect it from the rain, and in wet weather the water has to be baled out of the inside of the house; a drain runs past the back of it, and being on a higher level than the floor, the water comes inside in large quantities."

Then from your experience, and your knowledge of what your Society has done, you would not expect that any system dependent upon voluntary contribution would be very extensively available or useful for the districts of which you speak?—I think that the tax upon the proprietors would be so great that it would be unreasonable that they should have to meet it. They are already very heavily taxed, and it would be quite hopeless to get them to provide what is necessary.

Mr. Davidson.—You stated that in North Uist eleven schools were required: how many children would be in each, if they were supplied?—I can only give a rough guess; but I should think that in no case would there be less than thirty, and that they might in some cases come up to eighty. I have visited districts in which there were only twelve or fourteen families within attending distance of the school, but where, if there was no school, the children would be entirely without the means of education.

The Chairman.—What do you assume as the distance that they might fairly be expected to come to school?—I have known them come so far as four or five miles; but I think two and a half or three miles is the very outside that a child can be expected to come to school. In the case of North Uist and South Uist, my information as to the number of schools required was taken from the last statistical account.

Do your teachers require to pass any examination?—They all come up to Edinburgh, and they are examined by two of the clergy, who are directors of the Society, and it is after that examination that they are appointed to the schools.

They are not required to attend the Normal Schools?—No; I have recommended to the Society that they should make it a condition of every appointment that the teachers should have a Government certificate; but we find it extremely difficult, in Gaelic-speaking districts, to get teachers who have certificates. I have a note of the difficulties of adapting the Privy Council system to the Hebrides. The second matter of which I made a note is the small emoluments of the teachers; of that I have already given examples; and the difficulty of getting men who are at all qualified to discharge their duties upon the small emoluments which the Society can offer to them. A very general result of that is that the men devote their time a great deal more to the cultivation of their crofts than to the cultivation of their schools.

What is the size of the croft which you require the teachers to get?—I don't know what the requirement is, but the usual size is from one to two acres, and they get a cow's grass besides. It is unreasonable to suppose that men can live upon these very small emoluments, amounting in some cases to only £22, and therefore they must find other sources of employment.

Mr. Black.—When you mentioned the emoluments, you did not include the croft and the cow's grass?—No.

The Chairman.—Is there anything else which you wish to mention on that subject?—I would refer to the matter of school-fees. Throughout these distant districts, it is very rarely the case that any school-fees are paid at all, or, if they are paid, they are exceedingly trifling in amount. The result of that is that the teachers feel no responsibility whatever to the parents, and consequently they feel themselves entitled to teach the children or not as they please. A miserable sys-

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tem has got up throughout a great part of the Highlands, owing to a mistaken benevolence in some cases, and there is great canvassing sometimes to get children to attend particular schools, the result of which is that the parents of the children consider it rather a favour to the teacher to send the children to a particular school, than a favour to have their children instructed, and as a result of that, they don't prize the education which they receive as they ought to do.

That can scarcely occur in your destitute districts to any extent?—It does occur in some cases. It may be that we have a school in a particular place, which the Ladies' Association in Edinburgh, for example, think inefficient, and they send down another teacher, and place him within a few hundred yards of our school. I have known that done in several instances; and in cases where we found our own school was really not useful, and that the Free Church Ladies' school was doing the work that was required, we have withdrawn the grant to our school.

Have you any itinerating teachers?—None.

Have your Society considered the propriety of establishing such a system?—I am not aware that the subject has been before them; but I am not in the habit of attending the directors' meetings, and therefore I cannot say positively.

Can you give any opinion as to whether that would be an advisable and useful measure, or not?—I have not considered the subject very fully myself, but I should think that it is very doubtful if it would be a useful measure. There are certainly some cases in which it might be adopted with benefit. In the island of Fair Isle, halfway between Orkney and Shetland, there is a comparatively small population, and we had a school there recently, but we were obliged to withdraw it on account of the very inadequate state of the schoolhouse. The public burdens of the Isle, I believe, are larger than the actual rent received for it, and consequently very little can be expected. There is only a small number of children on the island who can attend school, and a school in such a district for three or six months at a time would be amply sufficient for the wants of the children.

In regard to the female schools for teaching sewing, are they held in dwelling-houses, or in separate buildings?—The arrangement which we recommend is, that where they are in connexion with another school, the female teacher should go into the other school for an hour a day, and that the girls during that hour should be with her, and released from their other duties.

Are any of these migratory?—No, they are all fixed. In some cases, however, they are held in private dwelling-houses; in many cases the schoolroom is the room in which the teacher sleeps, the bed is there, and the room serves the whole purposes of a dwelling and of a school.

Mr. Ramsay.—Can you state generally the objects for which the Society was established?—As far as I remember the words of the patent, it is for promoting Christian knowledge in the Highlands and Islands, and it is in the exercise of that object that schools are established. The Society also supports a number of missionaries.

In what way do the directors determine the localities within which they will place their schools?—An application is made from the district, containing the statistics of the number of children who can attend the school, the distance of the nearest school in any direction, and other particulars.

Mr. Cook.—You have a schedule, I suppose?—Yes, which is filled up locally, and returned to the directors, and once a year they determine what schools are to be upon the Society's patent.

Mr. Ramsay.—But they never attempt to supply the want of education in any district, unless a local application is made?—No.

Do you, in all cases in which a school is established, consult the heritors of the district with reference to its establishment?—I have no information on that subject. I know that the minister is always consulted.

If the necessary accommodation is provided, that is all you require, I suppose?—We would require the necessary evidence that the school is really needed in the district.

But it is not a matter of importance who supplies the accommodation, if you get the accommodation?—No.

You have stated that on the west coast of Scotland, in the Highlands and Hebrides, the standard of education is very low, but that even in that district there are instances in which schools have been placed near you: can you men-

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tion any instance in which any of the schools of the Ladies' Society, or any other schools, were placed beside yours, where you had an efficient teacher?—I am not desirous of giving names, but if it is necessary I can do so. There is the case of Kilmaluig, in the north end of Skye.

Any others in the Hebrides?—It certainly is the exception to the rule that we have had what can be called an efficient teacher in these districts. I could mention half a dozen instances where they have been placed close beside ours.

But in that half dozen instances I presume the teachers are utterly useless as teachers?—I would not say they were utterly useless as teachers.

Can you mention any one in the Outer Hebrides who is useful as a teacher?—When I first visited the schools in the Hebrides, there certainly were not many teachers who were of much use; but the result of my first visitation was that the greater number of them were removed, and we are now appointing new teachers, who, we hope, will be more successful.

How many teachers have you in the Long Island?—We appear to have five male teachers in the Long Island.

The first on your list is South Uist, Benbecula,—Samuel Nicolson; is he there still?—I believe he has got intimation that he is not to continue.

Is that on the ground of inefficiency?—Yes.

In Cairnish there is a blank; is there a teacher there?—A new teacher has been appointed.

Was the removal there on the ground of inefficiency?—The man was upwards of sixty when I visited him, and on my report he was superannuated.

Donald Mackay, in Bernera,—I presume that is a new appointment?—No; it was resolved to dismiss the teacher there two years ago, but no new appointment was made till the accommodations were made sufficient.

Was he an efficient teacher?—He was not.

Then do you regard as an evil the planting of another school alongside of an inefficient teacher of yours?—Well, that tells in various ways. We have the accommodations in the localities, and we are anxious to get our teachers efficient, and are using our utmost exertions for that purpose, and we think it rather hard that our stations should be taken out of our hands in that way.

But I think you mentioned that it is the exception in which you have efficient teachers in these districts?—That was three years ago.

And that had existed so for a very long period, had it not?—I have no information.

But you know that these teachers were in the districts for a long period, whom you came to regard as inefficient, when you inspected the schools?—I believe they were; but we have now a very efficient teacher at Borrera. That is an island in which there never was a school before; and I don't believe that anywhere in the British dominions a school could have been better placed. The teacher went there last February; there was not one of the children who could read a letter when he went, and when I visited him last August I find that I reported:—"Mr. Mackenzie commenced his duties here last February; when he came, not one of the children knew the alphabet, and the whole work had therefore to be commenced; to-day the oldest class read the Fourth Book accurately, though not very fluently; their advance is exceedingly pleasing; they must have set to their studies with all their hearts, and their progress is truly marvellous."

How do you examine the scholars in these schools, to arrive at a knowledge of the state of education among them?—I am generally in the habit of making the teacher examine them in the way he is accustomed to do from day to day, and judging from his appearance, and if necessary by putting questions to the children myself, whether the state of education is such as it ought to be.

Do you make it an instruction to the teachers that they shall persuade the children to speak English in the schools?—Certainly.

Have you a copy of your instructions to the teachers?—I can supply it.

Do you ever examine them in writing to dictation, or see that done?—Certainly; frequently.

Are you confining your remarks to the Western Islands?—I remember a school in the west of Sutherland in which there was writing to dictation.

But have you seen any in Skye or the Outer Islands?—No; I don't remember of any at this moment.

What branches do you usually find that the children are examined in by the

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teacher?—They all learn English; that is requisite; and I have given the statistics of those who learn writing, arithmetic, English grammar, and geography.

And you see them examined in these classes when you visit the schools?—Certainly; it is my duty to do so.

Mr. Cook.—Are the schoolmasters in the schools to which the Society gives aid always appointed by the Society?- They receive a commission from the Society.

But they may be appointed by others?—No; they hold their appointment from the Society.

Is there any condition about the religious teaching, or anything of that sort, made by the Society?—Yes.

What is the nature of it?—That they shall read the Bible in all the schools; and the instructions to the teachers are very particular in that respect.

Is it not a condition that the teachers shall belong to the Established Church?—It is.

Has that condition led to any jealousy of your schools, so far as you are aware?—I have known instances in which it has materially interfered with the success of the teacher,—the fact of his belonging to the Established Church.

Has that ever led to any rivalry in the way of establishing competing schools near your schools, do you think?—Yes.

You have found that?—I have.

That is to say, schools have been put down by other communions than the Established Church?—Yes.

You spoke of the first and second patent: what is the patent?—The letters-patent from the Crown under which the Society acts.

As to Fair Isle, you said the public burdens exceeded what you believe to be its rental: how are the people occupied there?—They are principally occupied in fisheries; they take large quantities of cod, and tusk, and ling, and dry them upon the rocks, salt them, and they are exported to France, Spain, and the Mediterranean.

Mr. Black.—Do you suppose there would be any objection to have the Government inspector, to inspect those schools which you have stated are in some measure inefficient?—I don't think there would be any objection. We are trying to remedy the inefficiency as fast as we can; but I cannot conceive that there would be any objection to the Government inspection.

You said there was competition to get the children to attend: who are the parties that compete?—There are a number of schools which have been for a long time established over the country, and as I understand it, from hearing of the matter in the district, there are frequently other schools established in particular districts, by the Free Church especially, where party spirit runs a little high, and there often arises a competition for the children in these districts. The Free Church schools give presents of books, and prizes, and maps, and one thing and another; and these have proved attractive. Our schools are not so attractive; and in that way and others, I understand, in these districts there did arise a competition. But it is proper to state that my information has come, in these instances, from members of the Established Church; and whether they are prejudiced or not, I am unable to say. I merely state what I have heard in the districts.

There is no other body that competes, or that you hear of as having competed, except the Free Church?—So far as I know, there are very few other schools in these districts connected with any other special denomination.

Are there many Roman Catholic children in the districts where you have schools?—There are a great many Roman Catholics. The whole of what belonged to Clanranald is still Roman Catholic. He was a Roman Catholic, and though the lairds have changed, the religion of the people has not changed. The whole district of Moidart and Arisaig is Roman Catholic. They have no schools of their own, and they attend our schools. We have an admirable school at Arisaig, in which the attendance is almost entirely of Roman Catholics. The population of Benbecula and South Uist is to a very great extent Roman Catholic, and there too they have no particular schools of their own; and as a rule, they attend our schools and the Free Church schools.

Are there Roman Catholic priests in these districts?—There are.

Do the priests make any objections to that?—The priests come to our schools and encourage the children to attend them; and they come and see how they are

instructed. They make no objection to their reading the Bible generally. I state that from the particular case of a school in South Uist, in which I know that to have been so; and I know they encourage them to attend in the other schools. W. J. Menzies.

Are there many Episcopalians in those districts?—I should think there are very few, though I have no positive information; I don't remember to have seen an Episcopalian Church in those districts.

If there are, I suppose they make no objection, any more than the Roman Catholics?—No; I never heard of any objection.

Mr. Davidson.—You say you take your teachers from the districts where the schools are situated?—That is when we cannot get certificated teachers. I have nothing to do with that part of the management of the Society; but I understand they get their teachers recommended from the district.

Then you confine yourselves, so far as the district is concerned, to the teachers belonging to the Established Church?—Every one of our teachers must be a member of the Established Church.

What is the Ladies' Association of which you have spoken?—It is an Association of ladies connected with the Free Church, in Edinburgh, who do a great deal of good by supporting schools in destitute localities. The principle of it is to have teachers there in summer, and attending College in winter; and consequently in many instances they have a change of teachers every six months.

Does that system answer with the children?—In my opinion it is very much against the school that there should be a frequent change of teachers.

But, as far as you know, are these schools that have been planted by the Ladies' Association effective schools?—Some of them are efficient. I have looked into a number of them in passing, and I have found very pleasing results in some of them; but others of them I have found to be inefficient.

I suppose there are not so many of the schools of that Association in the West Highlands as of yours?—I believe there are many more. They are scattered very thickly over Skye, and to a very considerable extent over Harris, North Uist, and South Uist.

Is the kind of education given in these schools very much the same as is given in yours?—Very similar.

It does not go to the higher branches of education?—Not at all.

Lord Polwarth.—Do your schools never go on to the higher branches?—I once found a boy reading Latin in Kylerhea, in Skye; but, with few exceptions, there is nothing of the sort taught.

Are your masters competent to teach the classics?—Very seldom.

Do you examine them in that?—No; it is not requisite for the appointment.

Are the branches necessary for the appointment merely reading, writing, and arithmetic?—Yes, and English grammar.

Do the children all read in English: are much pains taken to make them articulate in English?—Yes; we don't allow them to read in Gaelic, except the Bible. They read the Bible in Gaelic in some cases.

There the masters must necessarily understand Gaelic?—Yes; in those districts they must know Gaelic.

Your schools are more for instruction in English than in general knowledge?—Yes.

The instruction is all carried on in English?—Yes; but there may be an explanation of a word in Gaelic.

The reading of the Bible is in Gaelic?—Frequently.

And any explanations of it are, I suppose, in Gaelic?—Yes.

Mr. Davidson.—Was the boy whom you referred to as learning Latin, taught by a teacher, or was he teaching himself?—He was taught by a teacher. The teacher had a Government certificate, and is now in a school which has been erected by the Lord Justice-General in Colonsay.

Lord Polwarth.—Do you think there might be a desire for the higher attainments if there were competent masters?—Certainly.

Mr. Black.—In those districts where you stated that the burdens upon the land were greater than the income derived from it, are any of the estates ever in the market, and bought?—That was a solitary instance which I stated,—Fair

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Isle; and I believe there were special causes for it. My information was got from the minister of Westray, who was factor for the Fair Isle.

Lord Polwarth.—I think you mentioned that the inhabitants derive their livelihood from fishing, and not from the soil?—One-half of the land is cultivated in a way; they grow potatoes and black oats, but the produce is very precarious.

Mr. Ramsay.—How were the schools of the Society inspected prior to your appointment?—Mr. Tawse, the secretary, father of the present Mr. Tawse, used to go with a deputation of the directors, and see them from time to time. He went somewhere every year. I cannot say if he went periodically to every school.

How long were you employed in the inspection of the schools annually?—It used to occupy me about two months.

Within the two months you were expected to get over all the schools of the Society in three years?—I inspected eighty schools in two months a year; so that to get over 240 or 250, it would have taken six months.

Within the three years?—Yes; I shall finish my inspection this spring.

Taking the arithmetic classes, what rules were the children usually working in in the schools in the Highlands?—They were principally in the elementary rules. It is not in every school that arithmetic was taught when I visited it. I remember one case in which they professed that the branch could not find the slates; but in the average the children could do the simple rules.

Is it not your opinion that the Directors of your Society would accomplish the object for which the Society is established, better than they do at present, by reducing the number of schools, and increasing the allowance to teachers, so as to secure efficient teachers?—They have that in contemplation at present.

Do you think £25, which they contemplate raising the salary to, will be adequate to secure the services of efficient teachers?—Certainly not; but we hope by making it the condition in the appointment of every teacher, that he shall have a Government grant, to be enabled in that way to get more highly qualified teachers; and I have recommended to the Directors that any increase of the emoluments should not be a capitation grant to each teacher, but should be divided among them very much according to the results shown in the respective schedules, and the reports which they shall receive from the inspector when the schools are visited. We want to hold out the greatest inducement we can to exertion, and to make the teachers feel that their support is in a very great degree dependent on themselves, and on the results which they show in their schools.

Have the Directors ever contemplated providing for the wants of the destitute districts, rather than keeping up the whole of their present establishment of schools?—They have. I recommended lately that they should intimate to all the schools which they maintain in Aberdeen, Banff, and Moray, that they would not continue to maintain them after Whitsunday 1866.

But no resolution on that point has yet been arrived at?—Not that I know of.

Lord Polwarth.—What tenure of office have your schoolmasters?—It is during the pleasure of the Society.

They are dismissible at any time?—Yes; and acting on my reports, the Society has frequently resolved to get quit of teachers.

Mr. Ramsay.—Are you aware whether Mr. Tawse or the directors ever were in the Long Island inspecting the schools there?—I know they were there in 1853.

The late Mr. Tawse?—Yes.

Mr. Cook.—How are the affairs of the Society managed?—By a board of fourteen directors and a chairman.

Are they *ex officio* members?—The charter provides that the Society is to be elected from the benefactors or contributors to its funds. Formerly they had a great number of benefactors, and they selected a certain number of these to be members of the Society; and the Society chose the directors. Now, they are very happy to consider any one a benefactor who contributes two guineas, and to make him a member of the Society; and from the members of the Society the directors are chosen.

Then anybody may become a member of the Society?—He is elected. He is a benefactor; and being a benefactor, they elect him a member.

That qualifies him to be elected?—Yes.

W. J. Menzies.

Are these benefactions the only source of the Society's revenue, or have they realized property?—They have a large amount of landed estate and of realized property, which has been left to them in former times.

Mr. Ramsay.—When were you appointed inspector for the Society?—I was appointed in July 1862.

Was there any inspection of the schools between 1853 and 1862, in the district we are speaking of?—I don't know. I had nothing to do with the Society previous to that.

The Chairman.—Have you any further suggestion to make?—I omitted to state, in connexion with the query, "Whether the Privy Council system overtakes, or is calculated to overtake, Highland or remote districts?" that one great reason why it does not is, that there is a great want of enterprise in these districts; the system of Privy Council grants is comparatively unknown throughout the greater part of these districts; and in very many cases, rather than go through the amount of correspondence which is necessary to get these grants, they prefer to do without them. With reference to the query, "Whether any other plan of a more uniform and national character, based upon an extension of the existing parochial system, or otherwise, and better fitted to overtake the educational wants of the country, could be substituted for the Privy Council grants?" I would refer to the evidence which was given by my late father before the House of Lords in 1846, upon that subject, as containing the basis of a national system; and I would supplement that by saying that it appears to me, that a very great deal of good might be done in these destitute districts, by the appointment, in various places, of female teachers. I find, among the Society's schools, that there are upwards of forty, in which the total number enrolled for the half year does not exceed forty; and the average attendance in these schools cannot be above twenty or twenty-five. The education which the children want is of a very elementary character; and a qualified female teacher would be perfectly able to give them all the instruction which they require. In addition to that, a female teacher would be able to teach the girls attending the schools sewing; and in that way, it would not be necessary to support a double staff of teachers, and she would get the Government grant for her services. I find, among the schools on the second patent, that we have several most efficient teachers, whose total emoluments do not amount to more than £30 per annum; and if we can get properly qualified teachers for that, it seems most desirable that these districts should be supplied at such a very moderate rate, and that a female teacher would be quite sufficient for the requirements of the country. The burden of providing teachers in these outlying parishes is much greater than the heritors can be expected to bear; and considering the social state of these islands, it appears most desirable that they should, even at a very large expense, be provided with properly qualified teachers. The population in some of these islands is very much too large; and the produce of the soil is not at all sufficient for their support. The means of existence of the inhabitants, for a great part of the year, are exceedingly precarious; and they are unable to emigrate or to go elsewhere, simply because of the fact that they are not able to speak English, and that it is in very few places that they can be useful and can obtain wages. Therefore it would seem to be a great object for the country, that the means of teaching them English, and of promoting a voluntary emigration, should be introduced among them, and it probably would be the cheapest mode in the end, to give them a good English education, which would enable them to procure subsistence and high wages elsewhere, rather than to stay and starve at home.

Your Society has published a scheme of its establishment: it contains a list of all your teachers and their salaries?—It does.

Will you give it in?—Yes. I would state, in corroboration of the views I have expressed with reference to female teachers, that when in New York some time ago, I happened to look into the state of education there, and I was surprised to find that out of the whole teachers that are supported by the State, fifteen out of every sixteen were females. On going into the common schools I found that boys of thirteen and fourteen were admirably instructed by females; and that the girls were entirely instructed by females. They have a number of districts similar to ours, where the attendance can only be small, but where a teacher is actually required; and I understand that the system of female teachers works very admirably.

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Do you understand that that extends over other parts of America than New York?—Yes, it does. I see also that there is a query in the heads of examination as to whether the superintendence should be local or by a central board, and as I happen to have some experience as to that, I may state that my opinion is that the superintendence ought to be entirely that of a central board.

Do you mean by superintendence, the mere oversight or the entire management?—I mean that the local superintendence should be confined to the power of representation, and of attesting the returns which are to be got from the teachers, and that the whole administration should be through a central board.

Such as your Society exhibits?—No; I would rather take as a pattern the central board of the States of America. I have known instances where eminently successful schools in the North of Scotland were very greatly injured by local prejudices. I remember one case where my father was requested to inspect a large school in the North of Scotland; he furnished a report: the governors of the school happened to be small shopkeepers in a considerable village, where it was placed; the report was most favourable in every particular, except one; but the governors took hold of that particular, which was a slight blemish in a Greek class, and they made use of it very much to the detriment of the teacher, and most undeservedly. It would be very difficult throughout the Highlands to find any material for forming a local board in exercising any superintendence; it is most unfortunately the case that where superintendence is most required, it is the least effective. The central board ought to have absolute power over the teacher; they are entirely removed from local prejudice, and have no private ends whatever to serve. With reference to the Old and the New Codes, it appears to me that the present parochial system, so far as the Highlands are concerned, is defective in so far, that when the teacher is appointed, he has a certain competency which he has to trust to, and he is not removable in any way unless through gross misconduct; and, on the other hand, he has nothing more to expect by exerting himself in any way. Therefore, if it could be made a part of a national system that the teachers should have some reward of exertion to look forward to, and if an additional grant might be dependent on a satisfactory report from the inspector, or from the results shown in their schools by annual returns, I think it would have a most salutary effect in promoting exertion, and in securing better results in these districts.

Mr. Davidson.—Have you any suggestion to make as to the constitution of the central board?—No; it would be a board with ample power, and a board to whom the inspectors and the teachers should be ultimately liable.

But you have no opinion as to how the board should be formed?—No.

The Chairman.—Do you know anything about the relative powers of the central and local boards in America?—No, I did not inquire into that.

Lord Polwarth.—You say your schoolmasters are removable at pleasure: have you found any difficulty in finding competent persons to accept the office?—I think there would be a difficulty of that sort in regard to the parochial teachers, if they were removable at pleasure; but I think a public board, with inspectors answerable to the board for their conduct, would prove a perfectly sufficient guarantee to a teacher that he would not be removed without good cause, and that no private feeling or prejudice would interfere to do him harm.

Then you would not appoint them for life, as at present?—They might be appointed for life, but removable if the board saw fit to remove them.

Mr. Davidson.—You mean *ad vitam aut culpam?*—Not exactly; but *ad vitam*, or want of success.

APPENDIX OF DOCUMENTS.

A.

TABLE I.

Table showing the extent of the Educational Operations of the Church of Scotland.

Parochial Schools, including Parliamentary,		1057
Non-Parochial :—		
Sessional Schools,	120[1]	
Assembly Schools,	201[2]	
Society Schools,	200[3]	
Ladies' Gaelic Schools,	30[4]	
Subscription and Endowed,	304[5]	
		855
Total known to be in special connexion with the Church of Scotland,		1912
Schools visited by Presbyteries in 1863, in addition to those *known to be* Church of Scotland Schools, enumerated above,		839[1]
Total number of Schools under Presbyterial Superintendence, as above,		1912
Total under Church of Scotland superintendence,		2751
Attendance on day of examination, estimated for parishes not returned, but examined,		190,000[1]
Add for schools *known to be* in special connexion with the Church of Scotland,		10,000
Total,		200,000

TABLE II.

Money expended on Schools annually by Church of Scotland.

General Assembly's Committee,	£4,650	0	0[6]
Society for Propagating Christian Knowledge,	4,000	0	0[6]
Ladies' Gaelic School Society,	600	0	0
Returned to the Assembly's Committee in 1850 as expended *parochially*, including sums spent on buildings, etc.,	15,000	0	0
	£24,250	0	0

[1] Presbyterial Returns, abstracted and printed, 1863.
[2] Report to the General Assembly on Assembly Schools for 1864.
[3] Scheme of the Establishment of the Society for Propagating Christian Knowledge 1864-5.
[4] Report of Ladies' Gaelic School Society for 1864.
[5] Return taken up by the General Assembly's Committee in 1850.
[6] Including expenses of management.

TABLE III.

Books and Subjects taught in Parochial and Non-Parochial Schools.

The Bible, the Mothers' Catechism, the Shorter Catechism, reading, writing, arithmetic, geography, grammar, . . . } Universally.

Mensuration, bookkeeping, geometry, algebra, Latin, Greek, French, German, music from notation, drawing, . . . } Partially.

	Parochial.	Non-Parochial.
Learning *Latin*, . .	4·7 per cent.	2·5 per cent.
„ *Greek*, . .	·5 per cent.	·2 per cent.

N.B.—In the counties of Aberdeen, Banff, and Moray, where the old parochial school system is most fully developed in accordance with its traditionary character and aims :—

Learning *Latin*, . . .	6·88
„ *Greek*, . . .	1·7
„ *Mathematics*, .	4·62

B.

Table showing Number of Schools of all sorts (approximately) in the North-Western Highlands, and the proportion of these receiving Government Aid.

Argyleshire.

Presbytery.	Parochial.	Non-Parochial, Church of Scotland,	Others.	Total.
Inverary, .	14	6	5	= 25
Dunoon, .	13	18	15	= 46
Kintyre, .	13	28	12	= 53
Islay and Jura,	8	20	15	= 43
Lorn, . .	19	6	16	= 41
Mull, . . .	14	29	10	= 53
Total, .	81	107	73	= 261

In receipt of Government aid, 65.

Inverness, Ross, Cromarty.

Inverness, .	7	5	11	= 23
.	6	3	14	= 23
Dingwall, .	7	5	13	= 25
Tain, .	8	8	11	= 27
Lochcarron, .	8	10	17	= 35
Aber, .	9	15	10	= 34
Skye, .	9	22	22	= 53
Uist, . .	4	16	17	= 37
Lewes, .	6	3	22	= 31
Total, .	64	87	137	288

In receipt of Government aid, 77.

C.

Paper sent to the Commission showing the Number of Assembly Schools receiving Government Aid.

Number of Assembly Schools, . . .	201
Children on Roll, ...	19,000
Number of Schools receiving Privy Council Aid, .	100
Amount paid to these by the Privy Council,	about £2,400

D.

List of Male Students (*Queen's Scholars*), who left the Edinburgh Normal School between 31st December 1858 and 31st December 1862, with their present Occupations.

Queen's Scholars of 1857-58.

Barton, J. Ebenezer—Calcutta Civil Service.
Brown, Alexander—Crail Burgh School.
Browne, John—Junior Master, Stranraer Academy.
Brunton, William—Teacher, Mertoun Parish School.
Coutts, Alexander—White's Free School, Montrose.
Deans, James—Adam's Row School, near Millerhill, Edinburgh.
Dick, George H.—Private Teaching and College.
Dickson, George—Assistant, Perth Academy.
Duthie, James—Gala Subscription School.
Duthie, Robert—Bombay Orphan Asylum.
Ferguson, Lachlan—Assistant, Dochgarroch School.
Gow, John—Crofthead School, Whitburn (left lately).
Jolly, William—George Watson's Hospital, Edinburgh.
King, William—Stewart's Hospital, Edinburgh.
Martin, William H.—Edinburgh, St. Stephen's School.
Matthew, William M.—Left profession.
Maxwell, Robert—Roxburgh Parish School.
M'Donald, Peter—Kinlochbervie Parliamentary School.
MacEwan, Thomas—Assistant, Bushig, Glasgow.
M'Leod, Duncan—Strone of Cally School.
Oliver, George—Cairn Ryan School.
Pitblado, Charles—Cowdenbeath School, Fife, now Civil Service.
Pye, Alexander—Trade.
Rankine, Adam—Carronshore Assembly School.
Robertson, John—College.
Scott, Andrew—Menstry Subscription School.
Shedden, William—Alexander's Institution, Duke Street, Glasgow.
Sloss, George—Dead.
Smith, William—Bad health.
Stewart, James—Assistant, Forfar Academy.
Wilson, James—Gartsherrie Academy.
Wilson, Robert—Dead (late Assistant, Hume Parish School).
Ferguson, William—Dead.
Walker, John—Spettesburgh School, Blandford, Dorset.

Queen's Scholars of 1858.

Beveridge, James—Cupar Madras School, English Teacher.
Cain, John—Assistant, Stirling Academy.
Calder, William—Mathematical Teacher, Corporation School, Berwick-on-Tweed.
Cumming, Thomas—Traquair Subscription School, now Clerk.
Doig, William—Insch School, by Brechin.
Fleming, Ebenezer—Muasdale, Glenbar, Argyle.
Hunter, George—Inchmarlo School (lately left for College).
Kidd, Patrick—Balmoral School.
MacIntyre, James—Assistant, Marykirk Parliamentary School, subsequently Clerk.
Mackay, William—Tongue General Assembly School.
Muckersie, David—Jedburgh Sessional School.
Melville, David—Assistant, Dairsie Parliamentary School.

Moir, James—Earlsferry School.
Owler, William—Watterton-of-Echt School, Aberdeen, now gone to College.
Reid, Thomas—Edinburgh, George Watson's Hospital.
Scott, James—Assistant, Henderson's Academy, India Street.
Strachan, Andrew—East Plean Subscription School, Stirling.
Thomson, Alexander—Civil Service, Liverpool.
Thomson, John—Holyrood Parish School, Dumfries.
Thomson, Charles—Trade.
Wallace, George—Thorburn's School, Leith.
Watson, John—Clerk.
Williamson, David—Dailly School, Ayrshire.

Queen's Scholars of 1859.

Beveridge, William—Assistant, M'Lean's School, Dunfermline.
Brown, John—North Parish School, Aberdeen.
Brown, Robert—Kinloch Parish School.
Calder, Robert—Selkirk Grammar School.
Cameron, William—Balquhidder Parish School.
Carmichael, John—St. Bernard's School, Edinburgh.
Crockart, William—Dundee, Butterburn School.
Dunlop, William—New Street United Presbyterian School, Beith.
Duncan, William—Assistant, Burgh School, Dunbar (left lately).
Gladstone, Robert—Assistant, Hawick Parish School.
Gordon, Peter—Kinbuck Village School, Dunblane.
Graham, Walter—Rescobie Parish School.
Grieve, Thomas—Hawick Parish School (Assistant).
Gunn, William B.—Civil Service.
Henderson, James B.—Colinsburgh Subscription School.
Henderson, Robert—Dead.
Hynd, Robert—Corbridge, Northumberland.
Jones, John—Waenfawr National School, near Carnarvon.
Louden, David—Assistant, Forres Academy.
M'Neill, Nicoll—Slitrig School, Arran.
Mercer, Joseph—Went to Minto House Training College for second year.
Mitchell, James—Assembly School, Edingight.
Moody, Adam—Assistant, Arbroath Academy.
Monro, John—Assistant, Campbeltown Parish School.
Murray, George—Assistant, Redgorton.
Newlands, Kenneth—Parish School, Stobo.
Pringle, Robert—Forfar, Northend School.
Robertson, David J. W.—London, Caledonian Asylum.
Saunders, John—St. David's Sessional School, Dundee.
Shand, Alexander—Colmonell, Girvan.
Sinclair, Duncan—Assembly School, Lochaline, Morven.
Sutherland, Kenneth—Brora Assembly School.
Thomson, Robert—Dead.
Walburn, Edmund—Principal Resident Master, Walton College, Liverpool.
Sinclair, John—Aultbea School, Poolewe.
Winton, George—Glenfoudland General Assembly School, Insch, Aberdeen.
Wood, Thomas—Left profession.
Blackburn, George—Unknown (belongs to England).
Murray, William—Inverary Parish School (Second Master).
Bain, John—Dead.
M'Kay, Donald—Knockarthur School.
M'Neil, Malcolm—Melvich, Caithness (lately gone abroad).
Scott, John—Aberuthven School, by Auchterarder.

Queen's Scholars of 1860.

Anton, Peter—Inchmarlo Assembly School.
Bain, Alexander—Dead.

Beaton, Angus—Ill-health.
Black, Simon D.—Fairnington Assembly School.
Brown, Archibald—College.
Cameron, Duncan—Glencross Parish School.
Collie, Colin—Edinburgh Normal School (Assistant).
Dewar, James—Dunbar Burgh School (Assistant).
Dick, James—Charleston School, Glammis, now College, St. Andrews (Assistant).
Fairbairn, George—Isle of Man, Douglas, Athol Academy.
Ferguson, Daniel—Dead.
Ferguson, William—Missionary, New Greyfriars Parish.
Fraser, John—Lanark Burgh School (Assistant-Teacher).
Fyffe, Alexander—Kineff, Side School.
Gray, John—Elgin, Bishopmill General Assembly School.
Jolly, Andrew—College, St. Andrews.
Kerr, Robert—Newington Sessional School (since dead).
Livingstone, Arthur—Isle of Man, Douglas, Athol Academy (Assistant).
Law, Charles—Friockheim West School.
M'Connachie, George—Grammar School, Portsoy.
M'Dougal, William—Moffat Academy (Assistant).
Mackay, Duncan—Arnsheen Sessional School, Barrhill.
Millar, James—Edinburgh, Picardy Place School (Assistant).
Neil, Thomas—Dead.
Nisbet, Robert—Ill-health.
Philip, Thomas—Dollar Academy ; one of the Junior Masters.
Pow, Robert—Dead.
Ross, Donald—Wishaw Public School.
Shed, James—Milne-Graden School.
Sime, John—College.
Smith, Alexander—Demerara, Teacher.
Swanston, James—Edinburgh, Niddry Street, Dr. Bell's School (Assistant)
Tait, John—New Sauchie School, Alloa.
Taylor, Robert—Australia.
Thom, Andrew—Newton-Grange School, near Dalkeith.
Tweedie, George—Swinton Parish School.
Vallance, David—Dead.
Wood, John—Falkirk Parish School (Assistant).

Queen's Scholars of 1861.

Aird, John—Christian Knowledge Society School, Delnies, parish of Nairne.
Anderson, James.*
Arnott, James—Edinburgh, Merchiston School, Writing-Master.
Bauchop, Charles—College.
Berry, Boswell—Bathgate Parish School (Assistant).
Crockart, David—Montrose Academy (Assistant).
Dear, James—Inch, by Fettercairn.
Dunnet, John G.—Luss Parish School.
Eddington, John H.*
Leslie, George—Leith High School, Mathematical Master.
Malcolm, Richard—Rattray's School, Aberdeen.
Nisbet, John—Liverpool Mercantile Academy (Assistant).
Paton, John—Ill-health, at home.
Pringle, Alexander—College.
Russell, Robert—Edinburgh Normal School (Assistant).
Scott, Peter—Crieff, Taylor's Institution (Assistant).
Sinton, Robert J.—College.
Smith, Ebenezer J.—Glasgow, St. Enoch's School (Assistant).
Smith, John—Lunanhead Assembly School.
Stewart, William—Greenhill School, Crofthead, Whitburn.
Watson, William.*
Wyllie, George—Techmuiry, by Fraserburgh.

* Those marked thus * are still waiting appointments.

Beaumont, Christopher.*
Brown, Charles—Glencross Parish School (Assistant).
Brown, George—Newington Sessional School (Second Master).
Cameron, Hugh—Arnisdale Assembly School, Glenelg.
Colville, James—St. Andrews, Madras College (Assistant).
Davidson, John—Montrose, Straiton's School.
Dick, Thomas—Lasswade Subscription School.
Duncan, William—Civil Service (Excise).
Durward, John—Edinburgh, Young Street School (Assistant).
Fairnie, Alexander—General Assembly School, Glenrinnes.
Fargie, George—Hawick Parish School (Assistant).
Ferguson, James—Tranent, Steel's Hospital (Assistant).
Finlay, William—Redding Colliery School.
Gorrie, James—Strathloch Assembly School.
Henderson, D.—Edinburgh, Morningside School.
Horne, Robert—Ill-health, at home.
Hutchison, Robert—Lismore (Rhynie) Assembly School.
Knox, Hugh—Buittle Parish School (Assistant).
Laing, Thomas—Newhaven School (Trinity).
Lyon, David L.—Dundee, General Sessional School.
Mason, David—Paxton School.
Matthew, David.*
M'Lean, Alexander—Lochearnhead School.
M'Pherson, Charles—Dunvegan, Duirinish School.
M'Rostie, Henry—Lendal School, near Girvan.
Nicoll, David—Haddington Parish School (Assistant).
Riddoch, John—(unknown).
Tosh, James—Sheffield (Boarding School).
Towns, Hector—Shetland, Whiteness School.
Young, John—Lennie Side School, Cramond Parish.
M'Quarrie, James—Redding Colliery School; now College.
Scott, John—Innerleithen, Walkerburn Subscription School.

N.B.—The above Students concluded their attendance in December last, 1862.

Glasgow Training College, Dundas Vale,
Glasgow, *April* 6, 1863.

List of Second Year Male Students who left the Glasgow Normal School at Christmas 1858.

1. John Beckton—Glenluce, Church of Scotland School; Crown Court School, Covent Garden, London.
2. James Diamond—Free Church School, Glenluce.
3. Hugh Dickie—Airdrie Academy; Girvan Parish School.
4. John Fraser—Helensburgh Public School.
5. John Hannah—Corrie School, Brodick, Arran; Crossmichael Parish School (Kirkcudbright).
6. William Logan—Airdrie Academy; Dalmonach Public Works School; now Dalry Parish School.
7. Peter MacNicol—St. Mark's Sessional School, Anderston.
8. Lachlan MacTavish—Assembly School, Greenock.
9. Robert Marshall—Tarbolton Parish School; Dalmonach Public Works School.
10. Quintin Pringle—St. George's-in-the-Fields Sessional School.
11. George Rae—Clyde Iron-Works School.
12. James B. Robertson—St. Luke's Sessional School.

* Those marked thus * are still waiting appointments.

13. Joseph Schindler—Assistant in Burgh School, Stirling.
14. James Stafford—Alloway School, Ayr.
15. Thomas Stobo—Assistant, Annfield School, Glasgow.
16. James Thompson—Dundonald Parish School; now Assistant in Stirling High School.
17. William A. Williamson—Boys' Institution, Aberdeen.
18. Hugh Young—Airdrie (Assistant); Paisley Neilson Institution (Second Master); now Dailly Parish School.

List of Second Year Male Students who left the Glasgow Normal School at Christmas 1859.

1. John Alexander—Kersland Barony School, Dalry.
2. James Andrew—Pinwhirry, Church of Scotland School, Colmonell, Girvan.
3. Hugh Baird—Lugar Iron-Works School.
4. James Barles—Corrie School, Brodick.
5. Thomas Biggar—Bluevale Sessional School, Glasgow.
6. William Brodie—Left the profession; Coal Merchant.
7. Robert Brown—Assistant, Annfield School, Glasgow.
8. George Dick—Earl of Zetland's School (Clackmannan); now in Paisley.
9. David Douglas—Irongray Parish School.
10. James Dunlop—Lendalfoot School, Girvan.
11. Robert Finlayson—Whiteinch Public Works School, Partick.
12. Neil Fleming—Peninver School, Campbeltown.
13. John Gavin—Situation in Ayrshire, Dalquhairn Coal-Works School.
14. Archibald Gillespie—Emigrated to Canada.
15. Lewis Graham—Friockheim School, Forfarshire.
16. Andrew Gray—Assistant, Parish School, Lanark.
17. William Kirkland—Initiatory Department, Normal School, Glasgow (E.C.)
18. Charles Kirkwood—Whitlett's Feuars' School, Ayr.
19. John MacCrindle—Newton-in-Ayr School (Assistant).
20. John MacFarlane—Eglinton Iron-Works School.
21. Alexander MacLintock—Lugar Iron-Works School.
22. David Oswald—Abingdon Endowed School (Lanarkshire).
23. Robert Pool—New Brunswick, Dalhousie Grammar School.
24. John Pryde—Knockderry School, Kilcreggan.
25. James Reid—Assistant, Newcastle Public School.
26. John Simpson—Sessional School Greenock.
27. James Smellie—Assistant in Dalry Parish School; now Ashkirk Parish School.
28. Samuel Somerville—Assistant, Alexander's Institution, Duke Street, Glasgow.
29. Robert Young—Langbank School (now dead).

List of Second Year Male Students who left the Glasgow Normal School at Christmas 1860.

1. Robert Boyd—Assistant, Comrie Parish School; now Barr Parish School, Ayr.
2. Thomas Douglas—Port Logan, Wigtown; now Carstairs Railway Company Schools.
3. Thomas Ferguson—Dalkeith.
4. Alexander Gillespie—Assistant, Parish School, Beith.
5. James Henderson—Nitahill Public Works School.
6. James Howatson—Gleneslin School, Dunscore (since dead).
7. James Hutton—Assistant, Highland Society School, Glasgow.
8. Robert Lewis—South Queensferry Parish School.
9. John J. MacEwan—Gartsherrie Academy (Classical Department).
10. Johnston MacGunn—Caledonian Road School, Liverpool.
11. John MacNicol—Summerlee Public Works School, Coatbridge.

12. Duncan Montgomery—Southend Parish School.
13. Andrew Morgan—Kilmaurs Parish School (Assistant); now Tarbolton Parish School.
14. Robert S. Muir—Parish School, Penpont.
15. James Speirs—Assistant, St. Enoch's Sessional School, Glasgow.
16. John Stevenson—Sessional School, Greenock; now Juvenile Department, Normal School, Glasgow.
17. Thomas Stevenson—Assistant, Parish School, Bowmore, Islay.
18. James Ure—Camelon School, Falkirk.
19. John Wilson—Assistant, Neilston Parish School; Lecropt Parish School, Bridge of Allan.
20. Andrew Young—Sessional School, Greenock.
21. Hugh MacLachlan—Ladies' Association School, St. Catherine's, Cairndow.
22. James Porteous—Assistant, Parish School, Cathcart; now Lynedoch Street Academy, Greenock.

John Gregor and Archibald Hastie were Second Year's Students, but failed at their last examination.—J. D.

List of Second Year Male Students who left the Glasgow Normal School at Christmas 1861.

1. Alexander P. Brown—Assistant, Burgh School, Stirling.
2. David Calderwood—Tolcross Subscription School.
3. Gilbert Campbell—Hume Parish School, Kelso; now Assistant, Highlander Academy, Greenock.
4. James C. Christie—Assistant (Partick Institution); now Assistant, Alexander's Charity School, Duke Street, Glasgow.
5. Duncan M. Doak—Whitlett's Feuars' School, Ayr; now Blair Iron-Works School, Dalry.
6. George Forbes—Earl of Zetland's School, Clackmannan.
7. John Fulton—Assistant, Blair Iron-Works School, Dalry.
8. James Hamilton—Brodick Parochial School, Arran.
9. James S. Kelly—Assistant, Parish School, Gladsmuir.
10. John Kennedy—Clyde Iron-Works School.
11. Malcolm Lamont—General Assembly School, Melvich, Thurso.
12. Robert MacDonald—Kilchornan Parish School, Islay.
13. John MacLeod—Assistant, High School, Glasgow.
14. John MacWhannel—Assistant, Muirkirk Iron-Works School.
15. Robert B. Mantle—Whinnyligate Parish School, Kirkcudbright.
16. James Moodie—Assistant, Kilmaurs Parish School.
17. Alexander Murray—Duntocher Public Works School.
18. John Preston—Lennoxton Public School, Campsie.
19. Gilbert Smith—Emigrated to United States.
20. James Smith—Assistant, Riccarton Parish School.
21. Alexander Thompson—Assistant, Dundryan Public Works School.
22. Thomas Weir—Assistant (Mathematical Department), Greenock Academy.
23. Robert Wilson—Orphan and Charity School, Hamilton.
24. William Wilson—Assistant, Comrie Parish School.
25. William Young—Chalmers' Church Sessional School, Glasgow.

List of Second Year Male Students who left Glasgow Normal School at Christmas 1862.

1. James Andrew—Assistant, Eglinton Iron-Works School.
2. Ruthven Angus—Tutorship, Erskine Manse, Renfrew.
3. Walter Beaton—Assistant, Newton-on-Ayr Parish School.
4. Robert Bell—Assistant, Dunnotar Parish School.

*5. James Beveridge—Tutorship (with Mr. Macfarlan, distiller, Port-Dundas).
6. James Crerar—Bridgend School, Islay.
7. Allan Gillespie—Port Logan School.
8. William Hodge—Assistant, St. David's Sessional School, Glasgow.
9. Henry L. Horne—Assistant, Airdrie Academy.
10. Malcolm Macgregor—Poll School, Strachar (Subscription School).
11. William Macintosh—Assistant, Parish School, Bowmore, Islay.
12. Colin Mackay—Assistant, St. James's School, Glasgow.
*13. John Macnee—Tutor, Barkerland House, Dumfries.
14. Charles Marshall—(Interim) Teacher, Dunoon Parochial School.
15. Archibald Morton—Assistant, Parish School, Dunipace, by Denny.
16. Archibald Miller—Whinnyliggate Parish School, Kirkcudbright.
17. Alexander Tagg—Assistant, Abbey Parish Church, Paisley.
18. James H. Young—(Interim) Teacher, Parish School, Hamilton.

Eleven still wait for appointments to schools.—J. D.

Glasgow Training College, Dundas Vale
Glasgow, *April* 7, 1863.

List of Second Year Female Students who left the Glasgow Normal Seminary at Christmas 1858.

1. Mary Barclay—Industrial School, Eaglesham.
2. Mary Brown—Industrial School, Lochgilphead.
3. Elizabeth Burns—Industrial School, Lochwinnoch; but since married and gone to Australia.
4. Christina Campbell—Industrial School, Ceres.
5. Catherine Craik—Infant School, Episcopal Church, Glasgow.
6. Jessie Drysdale—Cumberland Industrial School; lately removed to White-Insh Industrial School, Partick.
7. Margaret Hunter—Industrial School, House-hill.
8. Helen Laidlaw—Industrial School, Meadowbank.
9. Margaret Lang—Industrial School, Clackmannan.
10. Isabella Newett—Female School in connexion with St. Paul's Episcopal Church, Liverpool; now married.
11. Jane Ramsay—Emigrated to Melbourne.
12. Elizabeth Robertson—Assistant, Tillicoultry Parish School.
13. Margaret Watson—School in Liverpool.

List of Second Year Female Students who left the Glasgow Normal Seminary at Christmas 1859.

1. Margaret Dale—Industrial School, Kilbirnie.
2. Janet Simpson—Industrial Girls' School, Caermarthen.
3. Elizabeth Smith—Industrial School, Kilwinning.

Two others, Margaret Dale and Charlotte Campbell, failed in their second examination. Dale was appointed to an Industrial School at Kilbirnie; Campbell to an Industrial School, Crieff.

* Wishes to be appointed to a school.

List of Second Year Female Students who left the Glasgow Normal Seminary at Christmas 1860.

1. Isabella Biggam—Infant School, Thornliebank (near Glasgow).
2. Eliza Boyd—Motherwell Industrial School; then removed to Annan, which she has left on account of bad health.
3. Mary Craig—Died before receiving an appointment to a school.
4. Anne Dick—Industrial School, Ringford, Castle-Douglas.
5. Margaret Dick—Countess of Seafield's Industrial School, Glen-Urquhart.
6. Margaret Edwards—Assistant in St. John's Industrial School, Glasgow.
7. Hannah Howat—Industrial School, Cardross.
8. Eliza Hunter—Industrial School, Thornliebank, Dumbarton.
9. Isabella Irvine—Industrial School, Wishaw.
10. Margaret Kelly—Married before being appointed to a school.
11. Agnes Leckie—Industrial School, U. P. Church, Renfield Street, Glasgow.
12. Elizabeth MacLellan—Industrial School, Pollokshaws; now Industrial School, Stranraer.
13. Mary G. MacQuaher—Sessional School, Girvan.
14. Marion Masterton—Infant School, Alloa.
15. Lilly Robertson—No appointment; is waiting for one.
16. Ann Steven—No appointment; is waiting for one.
17. Catherine Stewart—Gaelic Church School, Greenock.
18. Catherine L. Stewart—Infant School, Ironbridge, Shropshire.
19. Mary Wellwood—Industrial School, Lauder.

List of Second Year Female Students who left the Glasgow Normal Seminary at Christmas 1861.

1. Isabella Bain—Industrial School at Milngavie.
2. Frances Beattie—Glentyane Industrial School, Kilbarchan.
3. Maria F. Brown—Industrial School, Annan.
4. Agnes Carbarns—Industrial School, Stewarton.
5. Anna M. Duncan—Ladies' Institution, Calcutta.
6. Elizabeth M. Ferguson—Industrial School, St. Mark's, Glasgow.
7. Eliza Grant—Industrial School, Blantyre.
8. Christina Kinloch—Industrial School, Anderston, Glasgow.
9. Margaret Liddell—Emigrated to New Zealand.
10. Margaret Lithgow—Assistant, Industrial School, Castleton.
11. Isabella MacCall—Assistant, Eastmuir School, Shettelson.
12. Margaret Macdonald—Industrial School, Sutherland.
13. Isabella M'Kellar—Industrial School, Bowmore, Islay.
14. Agnes M'Killop—Public Works School, Stevenston.
15. Augusta MacNaughton—Public Works School, Auchinheath.
16. Margaret Mantle—Industrial School, Bellshill.
17. Janet Millar—Industrial School, Crosshill.
18. Jane Millar—Industrial School, Lochwinnoch.
19. Jane Richardson—Industrial School, Maryhill.

List of Second Year Female Students who left the Glasgow Normal Seminary at Christmas 1862.

1. Jessie F. Craig—Caermarthen Lancasterian Infant School.
2. Mary Ann Macdonald—Female Teacher, Larbert Parish School.
3. Elizabeth Morton—Southwick Female School, Sunderland.
4. Eliza Patrick—Female Teacher, Maxwelton Burgh School.
5. Elizabeth Slessor—Female Teacher, St. John's School, David Street, Glasgow.

Eighteen are still waiting for appointments to schools.—J. D.

E.

Table referred to in p. 272.

COUNTIES.	Population.		School Children.	Aided Schools.		Aided Children.	Ratios of Aided to School Children.
		÷ 8			× 70		
Aberdeen, . . .	212,032	,,	26,504	73	,,	5,110	5·1
Argyle, . . .	89,298	,,	11,162	35	,,	2,450	4·1
Ayrshire, . . .	189,858	,,	23,732	54	,,	3,780	6·2
Banffshire, . .	54,171	,,	6,771	23	,,	1,610	4·2
Berwickshire, . .	36,297	,,	4,537	13	,,	910	5·0
Buteshire, . . .	16,608	,,	2,076	5	,,	350	5·9
Caithness-shire, . .	38,709	,,	4,838	15	,,	1,050	4·6
Clackmannanshire, .	22,951	,,	2,868	4	,,	280	13·1
Dumbarton, . .	45,103	,,	5,637	17	,,	1,190	4·7
Dumfriesshire, . .	78,123	,,	9,765	19	,,	1,330	7·3
Edinburghshire, .	259,435	,,	32,428	84	,,	5,880	5·5
Elginshire, . .	38,959	,,	4,868	18	,,	1,260	3·8
Fifeshire, . . .	153,546	,,	19,193	63	,,	4,410	4·3
Forfarshire, . .	191,264	,,	23,908	65	,,	4,550	5·2
Haddingtonshire, .	36,386	,,	4,548	12	,,	840	5·4
Inverness-shire, . .	96,500	,,	12,062	32	,,	2,240	5·3
Kincardineshire, .	34,598	,,	4,324	22	,,	1,540	2·8
Kinross-shire, . .	8,924	,,	1,115	6	,,	420	2·7
Kirkcudbrightshire, .	43,121	,,	5,380	18	,,	1,260	4·2
Lanarkshire, . .	530,169	,,	66,271	102	,,	7,140	9·2
Linlithgowshire, .	30,135	,,	3,781	12	,,	840	4·5
Nairnshire, . .	9,956	,,	1,244	5	,,	350	3·5
Orkney and Shetland,	62,533	,,	7,815	10	,,	700	11·1
Peeblesshire, . .	10,738	,,	1,342	3	,,	210	6·3
Perthshire, . .	138,660	,,	17,332	79	,,	5,530	3·1
Renfrewshire, . .	161,091	,,	20,136	31	,,	2,170	9·2
Ross and Cromarty, .	82,707	,,	10,338	33	,,	2,310	4·4
Roxburghshire, . .	51,642	,,	6,455	9	,,	630	10·2
Selkirkshire, . .	9,809	,,	1,226	3	,,	210	5·8
Stirlingshire, . .	86,237	,,	10,779	25	,,	1,750	6·1
Sutherlandshire, .	25,793	,,	3,224	21	,,	1,470	2·1
Wigtonshire, . .	43,389	,,	5,423	15	,,	1,050	5·1

Total Public Day-Schools in 1851, 3349; Private, 1839.

F.

Appendix to the Evidence of Ralph R. W. Lingen, Esq.

No. I.

The examination of children individually in Scotland under the Revised Code began in May 1864. Up to 31st August in the same year, 31,789 children above six years of age, or 66 per cent. of the average number attending 521 schools, had been examined.

The Standards of Examination were the following :—

	Standard I.	Standard II.	Standard III.	Standard IV.	Standard V.	Standard VI.
Reading.	Narrative in monosyllables.	One of the Narratives next in order after monosyllables in an elementary reading book used in the school.	A short paragraph from an elementary reading book used in the school.	A short paragraph from a more advanced reading book used in the school.	A few lines of poetry from a reading book used in the first class of the school.	A short ordinary paragraph in a newspaper, or other modern narrative.
Writing.	Form on black-board or slate, from dictation, letters, capital and small, manuscript.	Copy in manuscript character a line of print.	A sentence from the same paragraph, slowly read once, and then dictated in single words.	A sentence slowly dictated once by a few words at a time, from the same book, but not from the paragraph read.	A sentence slowly dictated once by a few words at a time, from a reading book used in the first class of the school.	Another short ordinary paragraph in a newspaper, or other modern narrative, slowly dictated once by a few words at a time.
Arithmetic.	Form on black-board or slate, from dictation, figures up to 20; name at sight figures up to 20; add and subtract figures up to 10; orally, from examples on black-board.	A sum in simple addition or subtraction, and the multiplication table.	A sum in any simple rule as far as short division (inclusive).	A sum in compound rules (money).	A sum in compound rules (common weights and measures).	A sum in practice or bills of parcels.

The managers and teachers were free to present the children for examination, in the several classes of their schools, according to their own discretion, so long as at least one class was presented as high as the fourth Standard. No grants depended in Scotland directly upon the examination. There was therefore no immediate motive to evade it.[1]

Of those examined—

10·89 per cent. . . . . failed in Reading.
28·6 ,, ... ,, Writing.
33·4 ,, ... ,, Arithmetic.

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[1] At the Council Chamber, Whitehall, 11th June 1864.

MINUTE BY THE LORDS OF THE COMMITTEE OF HER MAJESTY'S MOST HONOURABLE PRIVY COUNCIL ON EDUCATION.

Read, and approved, the following draft letter of instructions to Her Majesty's Inspectors of Schools *in Scotland*.

(Copy.) *Council Office, Downing Street, London, S. W., 11th June* 1864.

Sir,—The Revised Code, so far as payments to elementary schools are concerned, is suspended *in Scotland* until 30th June 1865.

You will continue strictly to inspect and examine schools according to the forms and instructions of the Revised Code.

Your duty is the same as if the examination of children individually, according to Article 40 of the Revised Code, had been the prescribed method of inspection under the Code of 1860.

Augmentation, stipends, and gratuities will continue to be paid on your report as under the Code of 1860, and will not be assessed at so much per child.—I have, etc.

(Signed) R. R. W. Lingen.

The corresponding percentages of failure in England were—

	1863.	1864.
In Reading, ...	12·66	11·9
In Writing, ...	14·90	13·9
In Arithmetic, ...	23·43	23·7
Number examined, ...	180,005	523,713
Percentage of number examined to average number in attendance, . . .	64·	65·93

Of the children above ten years of age, in schools for the labouring poor, the greater part are approaching the end of their school days.

Out of the 31,789 children above referred to as examined under the Revised Code in Scotland, 12,973 were above ten years of age. All these latter children, therefore, ought to have been able to pass in Standard VI., if satisfactorily proficient. But of these same children—

605 =	4·66 per cent.	were presented under Standard I.
2113 =	16·21	,, ,, II.
3617 =	27·88	,, ,, III.
4266 =	32·88	,, ,, IV.
1859 =	14·32	,, ,, V.
513 =	3·95	,, ,, VI.

And out of them, there failed in one or other of the three subjects—

292 =	48·26 per cent.	under Standard I.
875 =	41·41	,, ,, II.
1346 =	37·21	,, ,, III.
1682 =	39·42	,, ,, IV.
515 =	27·75	,, ,, V.
133 =	25·92	,, ,, VI.
4843		

The percentage, therefore, of those who failed (wholly or in part) to those who passed, was 37·33, among 12,973 children above ten years of age, examined not under the highest Standard only, but of whom nearly one-half were examined under the three lower Standards.

It is evident, however, that every child of this age should be reckoned as a failure of education who cannot at least pass above Standard III. But, while 12,973 (the number of children above ten years of age examined) is 40·80 per cent. of 31,789 (the whole number examined), the number of children above ten years of age who passed successfully above Standard III. is only 13·55 per cent. of the whole number examined, or one-third of what it ought to have been.

If Standard VI., however, be fixed as the only proper minimum for such children, the number (380) of those who are shown to have reached it is less than ·3 per cent. of those (12,973) who, according to age, ought to have done so.

No. II.

Out of the grant of £52,477, 6s. 5d., made in 1863, to schools (Normal or Elementary) in connexion with the Established Church of Scotland, £11,650, 10s. 4d., was made to *Parochial* schools.

No. III.

EXPENDITURE (1863) from EDUCATION GRANTS classified according to object of GRANT.

For Scotland only.				For Year ended 31st Dec. 1863.		
1. In augmentation of the salaries of certificated schoolmasters and schoolmistresses,				£25,228	16	8
2. In stipends of pupil-teachers, and gratuities to the schoolmasters and schoolmistresses instructing them,				43,594	12	2
3. In stipends to assistant teachers,				1,091	5	0
4. *Nil.*						
5. In stipends to assistant teachers in night schools,				325	0	2
6. In special allowances for drawing,				215	13	4
7. In grants to industrial classes in connexion with elementary day schools,				120	15	11
8. In grants to industrial schools,				47	3	2
9. In pensions,				60	0	0
10. In building, enlarging, and furnishing school-houses, elementary,				2,256	17	6
11. In grants to five separate training colleges,				25,641	15	0
12. In annual subsidies to school societies in support of training colleges,				500	0	0
13. Establishment, viz.:						
Office in London[1] and contingencies,	£3,449	12	6			
Inspection,	7,560	11	5			
				11,010	3	11
				£110,092	2	10

No. IV.

I find a return made on the subject in 1860 (and the local circumstances remain unchanged), from which it appears, in the islands and in the counties north of the Caledonian Canal, three different denominations of inspectors employed forty-two days *in travelling only*, against seventy-three days on which they did any *inspection*. Had inspectors who could have visited all schools indifferently been employed, less than one-half of the number of days employed in travelling only would have sufficed.

No. V.

COMMITTEE OF COUNCIL ON EDUCATION,
COUNCIL OFFICE, LONDON, S.W.
17*th April* 1862.

Circular to H. M. Inspectors and Assistant Inspectors of Schools in Scotland.

SIR,—With reference to the mention of Her Majesty's Inspectors of Schools in "The Parochial and Burgh Schoolmasters (Scotland) Act, 1861," I am directed to instruct you to answer all applications that may be made to you for your services, by informing the applicants that they must in the first instance write to the Secretary of the Committee of Council on Education upon the subject.

A copy of the answer which *mutatis mutandis* has been ordered by their Lordships to be returned to such applications, is subjoined for your information and

[1] Proportion for Scotland.

guidance. If in any case you are closer to the school from which the application proceeds, than you are again likely to be in the ordinary course of your duties during the same year, and if the circumstances are urgent, and your return to it for a special visit would involve much time and expense, you are at liberty to make the inspection at once, but with notice to the applicants that "they must write immediately to the Committee of Council, and that in the meantime you must keep back your report, until their Lordships inform you that they have authorized the inspection which you have made by anticipation."

You will always be careful to write the title of the Act at the head of every report made in pursuance of it.—I have the honour to be, Sir, your obedient servant,

R. R. W. Lingen.

H. M. Inspector.

Committee of Council on Education,
Downing Street, London, S.W.,
7th January 1862.

Lochgoilhead Parochial School.

Rev. Sir,—In reply to your letter of the 1st instant, I am directed by their Lordships to inform you that they consider the duties of the inspector, under section 19 of the Schoolmasters Act, 1861, to be limited to making a report upon the state of the school, in precisely the same manner as he would in the case of any other school referred to him for examination. The inspector's report is to be made in the first instance to the Committee of Council, and will then be communicated by their Lordships to the minister and heritors.

The "finding" and "concurrence" which are to follow upon such a report, and all the evidence and depositions involved therein, constitute matter of a judicial kind with which the Committee of Council will nowise interfere.

The Lochgoilhead parochial school has not been placed under regular inspection, and my Lords cannot interrupt the duties of Her Majesty's inspectors in order to have it visited.

My Lords have forwarded your letter, and a copy of this reply to it, to Dr. Woodford, inspector of parochial (among other) schools in Argyleshire, and they have directed him to inform you how soon, without interrupting his other duties, he can visit your school.

You will receive from him the same notice, and the same form of return, which he would send to any other school referred to him for inspection, and he has been strictly directed to enter into no controversial matter, and to hear no witnesses and receive no papers connected with it. The minister and heritors will have the inspector's report upon the state of the school before them, as one of the data for their "finding," but the inspector will take no further part in their proceedings.—I have the honour to be, Rev. Sir, your obedient servant,

(Signed) R. R. W. Lingen.

The Rev. John MacDougall,
Lochgoilhead Manse, by Greenock.

No. VI.

Education Department, Privy Council Office,
Downing Street, London, S.W.,
25th February 1865.

Lochgoilhead Church of Scotland School.

Sir,—I am directed by my Lords to forward to you the enclosed copy of a letter which they have this day addressed to the Rev. John MacDougall of Lochgoilhead, and to request that it may be brought under the notice of the Scotch Education Commission.—I have the honour to be, Sir, your obedient servant,

R. R. W. Lingen.

Patrick Cumin, Esq.

Education Department, Privy Council Office,
Downing Street, London, S.W.,
25*th February* 1865.

Lochgoilhead Church of Scotland Schools.

Rev. Sir.—I have the honour to acknowledge the receipt of your letter of the 21st instant, and its enclosures.

From the correspondence which has passed between the promoters and the Committee of Council, it appears:—

That the population of the parish of Lochgoilhead is about 415, and that it consequently requires to have a school large enough to accommodate about seventy children.

That the existing parish school is able to accommodate about 100; but that the master of this school, having recently joined the Free Church, and having thus, in a great degree, lost the confidence of the people, it is now attended by no more than nine children.

That under these circumstances, the promoters, headed by the Established Church minister, propose to erect another school within 300 yards of the parish school, which shall be able to accommodate all the children of the parish; and that, to enable them to carry out their plan, they propose that the Committee of Council shall make a grant of public money towards meeting the expense of this new school.

I am directed to inform you that my Lords, upon these facts, are clearly of opinion that the promoters have made out no case whatever for a grant. The existing school is sufficient for the parish, and if the master performs his duties in the school properly, there is no sufficient reason why he should not be intrusted with the instruction of the children; if he does not do so, the heritors have a remedy under section 19 of the Burgh and Parochial Schoolmasters Act, 1861.

The mere fact that "the teacher having connected himself with the Free Church is offensive to the people," is, in their Lordships' opinion, no ground whatever for providing the population of the parish with superfluous school accommodation.—I have the honour to be, etc.,

(Signed) R. R. W. Lingen.

The Rev. John MacDougall,
Lochgoilhead, by Greenock, N.B.

No. VII.

24 & 25 Vict. c. 107, sect. 19.

In case it shall be found, on a report by one of Her Majesty's inspectors of schools, made on the application of the heritors of the parish, and concurred in by the Presbytery of the bounds, that the schoolmaster of any parish is disqualified because of infirmity or old age for the due performance of the duties of his office, or that from negligence or inattention he has failed efficiently to discharge such duties, it shall be lawful to the heritors and minister, at any meeting called and held as aforesaid, to permit or require such schoolmaster to resign his said office, and in case of his refusal so to do to dismiss or suspend such schoolmaster, and when necessary to declare the school vacant; and in every case of such resignation the heritors and minister may grant to such schoolmaster a retiring allowance payable during the remainder of his life; provided that where such resignation shall not be occasioned by any fault on the part of the schoolmaster, the heritors shall grant a retiring allowance, the amount whereof shall not be less than two-third parts of the amount of the salary pertaining to said office at the date of such resignation thereof, and shall not exceed the gross amount of such salary, which retiring allowance shall be payable in all respects in like manner with the salary of the schoolmaster; provided also, that no schoolmaster shall be suspended for a longer period than three months, or be dismissed for neglect of duty, excepting under the above provisions.

REPORT

OF

HER MAJESTY'S COMMISSIONERS

APPOINTED TO CONSIDER THE

LAW RELATING TO THE LANDLORD'S RIGHT OF HYPOTHEC IN SCOTLAND,

IN SO FAR AS REGARDS AGRICULTURAL SUBJECTS.

Presented to both Houses of Parliament by Command of Her Majesty.

EDINBURGH:
PRINTED BY MURRAY AND GIBB,
FOR HER MAJESTY'S STATIONERY OFFICE.
1865.

[*Price 2d.*]

COMMISSION.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith :— To Our Right Trusty and Well-beloved Councillor, Sir William Gibson-Craig, Baronet; Our Trusty and Well-beloved Charles Carnegie, Esquire; Our Trusty and Well-beloved Charles Lawson, Esquire, Lord Provost of Edinburgh; Our Trusty and Well-beloved George Young, Esquire, our Solicitor-General for Scotland; Our Trusty and Well-beloved Robert Dundas, Esquire; Our Trusty and Well-beloved Archibald Campbell Swinton, Esquire; Our Trusty and Well-beloved Thomas Graham Murray, Esquire; Our Trusty and Well-beloved James Simpson Fleming, Esquire; Our Trusty and Well-beloved George Hope, Esquire; Our Trusty and Well-beloved Peter Maclagan, Esquire; and Our Trusty and Well-beloved Adam Curror, Esquire, Greeting: Whereas We have deemed it expedient that a Commission should forthwith issue to consider the Law relating to the Landlord's Right of Hypothec in Scotland, in so far as regards Agricultural Subjects, and to report their opinion whether the same ought to be altered, and the nature of any alterations thereon which may appear to them to be desirable; Now Know ye that We, reposing great trust and confidence in your zeal and ability, have Authorized and Appointed, and do by these presents Authorize and Appoint you, the said Sir William Gibson-Craig, Charles Carnegie, Charles Lawson, George Young, Robert Dundas, Archibald Campbell Swinton, Thomas Graham Murray, James Simpson Fleming, George Hope, Peter Maclagan, and Adam Curror, to be Our Commissioners for the purposes aforesaid; and, for the purpose of enabling you, Our said Commissioners, to make the said inquiries, We do hereby Authorize and Empower you to call before you, or any three or more of you, all such persons as you may judge most competent, by reason of their knowledge or experience, to afford you correct information on the subject of this inquiry, and also to require the production of all books, records, documents, papers, and accounts, which may appear to you, or any three or more of you, calculated to assist your researches in the

execution of the Trust hereby reposed in you, and to inquire concerning the premises by all other lawful ways and means whatsoever. And We do hereby Command and Require you to report to Us in writing under your hands and seals, or under the hands and seals of any six or more of you, as soon as the same can reasonably be done, your several proceedings, by virtue of this Our Commission; and We further Will and Command that this Our Commission shall continue in full force and virtue, and that you, Our said Commissioners, or any three or more of you, may, from time to time, proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment; and We do hereby Nominate and Appoint Our Trusty and Well-beloved Robert Berry, Esquire, Advocate, to be Secretary to you, Our said Commissioners, and to attend you; whose services and assistance We require you to use, from time to time, as occasion may require. In witness whereof, We have ordered the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of Scotland to be appended hereto.

Given at Our Court, at St James's, the seventeenth day of November, in the year one thousand eight hundred and sixty-four, and in the twenty-eighth year of Our Reign.

Per Signaturam Manu S. D. N. Reginæ suprascript.

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HYPOTHEC COMMISSION.

REPORT.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Subject of inquiry.

BY your Majesty's Royal Commission, dated the 17th of November 1864, we were directed to consider the Law relating to the Landlord's Right of Hypothec in Scotland, in so far as regards Agricultural Subjects.

And we were directed to report our opinion whether the same ought to be altered, and the nature of any alterations thereon which might appear to us to be desirable.

Origin and present state of law.

Before referring to the investigations which we have made in discharge of the duties thus committed to us by your Majesty, we think it right to state generally what we understand to be the origin and present state of the law on the subject of our inquiry.

The landlord's right of hypothec in rural subjects is defined by Erskine (Inst. B. II. Tit. vi. sec. 56) to be 'a real right in the fruits of the ground, and in the cattle brought upon it by the tenant,' as a security for the rent, in addition to the tenant's personal obligation expressed in the lease. So also Professor Bell states (Commentaries, Shaw's edition, vol. ii. p. 880): 'Hypothec is a real right of security, similar to pledge, but not requiring possession, introduced by consuetude, and favourable to tenants, as saving them from personal and sudden diligence for their rents.'

There can be no doubt that the law of Scotland on this subject is derived from the law of Rome. That law gave to lessors of rural subjects a hypothec, or tacit pledge, over the fruits produced during the period of the lease, and a right of recovery of such fruits if removed. The lessors of houses had a similar hypothec over the effects which the lessee brought into them, the *invecta et illata* as they were called; but the lessors of rural subjects had no hypothec over *invecta et illata*. The Roman law on the subject seems to have been adopted with various modifications in most continental countries. There are said to be traces of it in the law of France so early as 1534, and its general principles are understood to have been adopted at different times in Spain, Holland, Germany, and Sardinia.

By the early law of Scotland, the remedy possessed by landlords against their tenants in security of their rents, was the 'Brieve of Distress,' originally intended as a remedy for the superior against his vassal. Its operation, we are told, can be traced down towards the end of the sixteenth century (Hunter on Landlord and Tenant, 3d edition, vol. ii. p. 338). Of the period when it was superseded by the present law of hypothec we have no precise information. The term 'hypothecated' is used for the first time in 1623, and by a series of decisions during the immediately succeeding years, the right was explicated precisely as it is now known.

'All fruits,' says Erskine, in the section following that already quoted, 'while growing, belong truly to the proprietor of the ground in consequence of his right of property; and though they become the tenant's by his reaping, or otherwise separating them from the ground with the landlord's consent, yet, by the Roman law, they continued, even after being reaped, to be chargeable with the payment of the yearly tack-duty, and so became the subject of the landlord's hypothec, because his consent to the reaping implied a condition that the stipulated rent should be paid out of these fruits to himself.' 'By that law,' he continues—meaning the law of Rome —'the landlord had no hypothec on the cattle pasturing on the ground, without express covenant. Nevertheless, not only the fruits but the cattle brought on the ground are, by the law of Scotland, subjected to this hypothec, partly for the landlord's greater security, and partly because in grass grounds, where little or no corn is sown, the subject of the hypothec would be frequently reduced to a trifle, if there were none upon the cattle.'

Hypothec over produce.

The produce of the ground is held to be hypothecated for the rent of the year of which it is the crop, and not for that of any previous or subsequent year. From the language of Erskine in one passage it might be inferred that, under the right of hypothec, the crop of one year may be attached for the rent of another; but the law as above stated has been clearly laid down and acted upon in various decisions of the Court of Session. There does not appear to be any limit prescribed to the time during which the hypothec attaches to the particular crop, the right of the landlord having in one case (*Hay* v. *Keith*, 1623, Mor. 6188) been held to exist even after the lapse of seven years. In virtue of his right of hypothec, the landlord may either retain the produce on the ground, even against creditors upon legal diligence ready to be executed by poinding, or he may recover it from purchasers, or those who have intermeddled with it.

Hypothec over live stock.

The right of hypothec over the live stock on the farm is different from that over the produce, and is held to be available for the rent of the current year only, or that which has just ended. The right for each year is held to expire at the end of three months after the last conventional term of payment of the rent for the year. The landlord has the same right of retention in virtue of his hypothec on the cattle, as he has in regard to the produce; but if the cattle have been removed by a *bonâ fide* purchaser, he has no right of recovery.

In virtue of his right of hypothec, whether over produce or live

stock, the landlord is preferred to all ordinary creditors. Should the terms of payment of the rent not have arrived, he may stop a creditor poinding for his debt until he receives security for the rent; or, if it is a grain rent, security for delivery of the quantities of grain specified in the lease. When proper security is given, the creditor may proceed with his poinding; but the right to remove the produce upon offering caution does not extend to the tenant himself. After the rent has become due, the landlord has a right to detain what amounts to the full value of the rent, and it is not then enough to offer security. Unless a sufficiency of effects is left, payment of the rent must be offered.

Right of following crop.

The right of the landlord to follow the crop in the hands of third parties, and to recover it from them, entitles him, if the term of payment of the rent has not arrived, to bring it back to the tenant's granaries, as security for the rent; or, if that term is past, to appropriate it to its payment. Notwithstanding early decisions to the contrary, it is now settled law, that a sale by bulk in open market protects the purchaser against any interference on the part of the landlord, unless indeed the purchaser should have had previous warning that the rent had not been paid. No similar protection is extended by the law either to a purchase by sample in open market, or to a purchase elsewhere than in market, although in either case the purchase may have been made in *bona fides*, and followed by delivery of the grain and payment of the price. In the case of *Dalhousie* v. *Dunlop*, decided by the House of Lords in the year 1830, and reported in the fourth volume of Wilson and Shaw's Reports, p. 420, it was held, that a purchase by sample in an open market did not protect the purchaser against the landlord's right; and in the recent case of *Barns* v. *Allan*, 1st June 1864, it was decided by the Court of Session, that the conversion of oats into meal was not sufficient to deprive the landlord of his right of hypothec, and that that right was to be preferred to a purchase of meal by a meal-dealer in his own premises.

Liability of sub-lessees.

If lands are sub-let by a tenant without authority to sub-let, and without an acknowledgment of the sub-lessee by the landlord, the crop and stocking of the sub-lessee are liable to the landlord's hypothec. But if the sub-lessee has been accepted by the landlord, the right of hypothec extends only to a preference over the rent payable by the sub-lessee, in as far as it may yet be unpaid to the principal tenant. The practice of taking in cattle belonging to third parties to graze has not been regarded as sub-letting. Accordingly it has been decided, that cattle so taken in are not liable to the landlord's hypothec, although a preference is given to him over the rent payable to the tenant, or the 'grass-mail,' as it is generally termed. On the other hand, it is said that the question has been raised, whether sheep belonging to a third party fed off upon turnips for the season are not liable to the full extent of the hypothec. The better opinion seems to be that they are not, and that the landlord's preference extends only to the amount of consideration payable for the turnips. It is also a question among lawyers, whether, in the case of an agricultural subject, the landlord's hypothec extends to the household furniture and implements of husbandry.

Sequestration necessary to give effect to hypothec.

Without the process of sequestration, the landlord's hypothec is a general right entitling him to retention or recovery. In order to convert this right into a real right over specific subjects, and also to enable the landlord to sell for payment of his claim, the process of sequestration is necessary. This is a suit before the sheriff, in which the landlord prays for sequestration, and, if he desires a sale of the effects, for a warrant to sell. After the rent has become due, the landlord is entitled to sequestration on the ground that the rent is unpaid; but, if sufficient cause be shown, he may make the application during the currency of the term. Still the process of sequestration for rent after the term of payment is past, combined with a prayer for a warrant of sale, is a process essentially different from a sequestration in security during the currency of the term; and different defences are pleadable in the two cases. It is not necessary for the landlord in any case to carry out a sequestration to sale; and very frequently the process is limited to the sequestration only, the tenant paying the rent before any further step is taken. In any question between the landlord and other creditors of the tenant, sequestration protects the former to the extent of his right of hypothec, but no further. Any dealing or interference by a third party with effects which have been sequestrated amounts to a breach of sequestration, and renders him liable to the landlord for the rent, and for all loss occasioned by the interference.

Claims preferable to landlord's.

The claims to which the landlord's right of hypothec is postponed are four in number,—viz. (1) claims on the part of the Crown; (2) feu-duties payable to the landlord's feudal superior; (3) the claims of farm-servants for their current wages; and (4) the claims of creditors for funeral expenses.

Hypothec available to assignees.

The exercise of the right of hypothec is competent not only to the landlord himself, but also to his assignees to the rents. A cautioner also has a right to the benefit of the landlord's hypothec, which devolves to him by assignation. These results follow from the principle of law, that the assignation to the rents is equivalent to a conveyance of every legal right, by which the payment of the rents is secured.

Urban hypothec founded on same principles.

In giving this short statement of what appear to us to be the principal features of the law relating to the landlord's right of hypothec, we have confined our attention to the law as it exists in reference to rural subjects. It may be right, however, to state that in urban subjects, embracing dwelling-houses in town or country, shops, and manufactories, the law gives to landlords a hypothec over the goods brought into the premises—the *invecta et illata* of the Roman law. In shops the right extends as well over the goods for sale as over the furniture; but a *bonâ fide* purchaser of the goods is secure against the hypothec. The hypothec in the case of urban subjects does not fall within the limits of our inquiry. But the rules of law applicable to the two classes of subjects depend on the same principles; and it is probable that no material alteration could be made with reference to the one, without being necessarily followed by a similar change with respect to the other.

Right rests on common law.

The existing rules as to the landlord's right of hypothec rest entirely on the common law of Scotland. While it is thus the case that no part of the law on the subject has been introduced by

statute, it is also true that, in the course of recent legislation on kindred subjects, that law has been left without interference. Thus the landlord's right of hypothec was expressly reserved, both by the Mercantile Law Amendment Act of 1856, and the Scotch Bankruptcy Act of the same year.

English law of distress.

The law as thus explained differs, we believe, in several important respects from the law of distress in England, which may be regarded as the corresponding remedy in that part of the United Kingdom for securing payment of rent. While the right of distress, as we understand, can only be enforced after the rent is due, and is so far more limited in its application than the right of hypothec, which may also be exercised for security of rent that is accruing, the English remedy is one to which the landlord can resort without any such legal process as is necessary in Scotland; and it is also one which extends, not merely to the goods of the tenant himself, but to all goods on the premises, whether belonging to the tenant or to a stranger. At the same time the English law does not permit the landlord, except where there has been a clandestine or fraudulent removal, to follow and distrain goods that have been removed from the premises; and a *bonâ fide* purchase for a valuable consideration by one not privy to the fraud protects the purchaser from the landlord's claim. The efficiency of the remedy by distress depends very much on statute, various Acts of the Legislature having from time to time been passed to render it more effective than it was at common law. It was, we believe, by special statute that its operation was extended to corn and farm produce generally, as well as that a sale of the goods in satisfaction of the rent, and not a mere seizure with the view of compelling its payment, has been permitted. It is also under a provision of the Legislature, for the protection of the landlord, that a creditor, suing out execution against the goods of a tenant, is compelled, before removing the goods from the premises, to pay to the landlord all sums of money then due for rent, not exceeding the rent for one year.

Terms of entry and payment of rent.

In any consideration of the law of hypothec, it is of importance to keep in view the usual terms in Scotland for entry to land by a tenant, and for payment of rent.

The term of entry in arable farms is, with a few local exceptions, either (1) Martinmas (11th November) for the whole possession, or (2) Whitsunday (15th May) as to the houses, grass, and fallow land, and the separation of the crop of that year from the ground as to the land under crop. The term of entry in grass or pastoral farms is almost invariably Whitsunday.

The legal terms of payment of rent,—in other words, those terms at which, in the absence of special agreement between the parties, rent is payable,—are Whitsunday and Martinmas; originally fixed on the assumption that one half of the rent was due by the tenant after sowing his crop, viz. at Whitsunday, and the other half after reaping his crop, viz. at Martinmas.

In the case, therefore, of an arable farm, with entry at Martinmas 1865, the rent is legally due at the terms of Whitsunday and Martinmas 1866. The rent is also legally due at the same terms when

the entry is to houses, grass, and fallow land at Whitsunday 1865, and the separation of the crop of that year from the ground as to the land under crop; it being settled by decision, that the tenant's possession of certain parts of the farm, as betwixt Whitsunday 1865 and separation of crop, is only to be viewed as an accommodation, and that, as he reaps no crop until that of 1866, the rule is to be held the same as if the entry had been at Martinmas 1865.

In the case of a grass or pastoral farm, with entry at Whitsunday 1865, the first half-year's rent is legally due at entry,—that is, at Whitsunday 1865,—and the next half at Martinmas 1865. The apparent anomaly is explained on the principle, settled by decision, that the law recognises the crop of the year as the test by which the payment of rent is regulated, and that the grass is really the crop, which is presumed to have been 'hained,' *i.e.* kept unstocked during the winter.

While the above are the legal terms for payment of rent, and are observed in some parts of Scotland, the conventional terms, that is to say, the terms fixed by the lease, are in most cases different.

In the case of an arable farm, with entry at Martinmas 1865, the conventional terms, according to the general practice, are either Martinmas 1866 for the first half-year's rent, and Whitsunday 1867 for the second; or Candlemas (2d February) 1867 for the first, and Lammas (1st August) 1867 for the second.

In the case of an arable farm, with entry to houses, grass, and fallow at Whitsunday 1865, and separation of crop 1865 from the ground as to the land under crop, the conventional terms are, according to the general practice, the same as those above stated where the entry was at Martinmas 1865.

In the case of a grass or pastoral farm, with entry at Whitsunday 1865, the conventional terms for payment of rent generally adopted, are Martinmas 1865 for the first half-year's rent, and Whitsunday 1866 for the second.

These terms are applicable to the greater part of Scotland. But there are some districts, and also particular estates in other districts, where the conventional terms are the same, or nearly the same, for arable and for pastoral farms. In some of these cases a tenant entering at Whitsunday 1865, and separation of that year's crop from the ground, pays his first half-year's rent as soon as at Martinmas 1865, and his second at Whitsunday 1866; but more commonly the first is payable at Candlemas, and the second at Lammas 1866.

Forehand and backhand rents.

In the case of arable farms, rents payable before a crop has been reaped are popularly known as 'forehand' rents. In the same way rents payable after the crop has been reaped are known as 'backhand' rents.

Recent proposals for altering the law.

The law under which the landlord's right of hypothec exists does not appear to have attracted public attention as a law supposed to require amendment until a comparatively recent period. In delivering judgment in the House of Lords in the case of *Dalhousie* v. *Dunlop* in 1830, Lord Chancellor Brougham expressed himself as laying down with regret a state of the law so unfavourable to the right of

a purchaser of grain by sample in open market; and, shortly after the decision in that case, the same learned lord introduced a Bill into Parliament, with the view of protecting the interests of *bonâ fide* purchasers. The Bill thus introduced was withdrawn, as were also other Bills brought into Parliament with a similar object. This was the case with a Bill brought into the House of Lords by Lord Belhaven in 1834; with one proposed in the House of Commons about the same time by Mr Gillon, then member for the county of Linlithgow; and also with one introduced in 1836 by Mr Chalmers, member for Montrose. More recently, in 1850, Lord Brougham again introduced a Bill on the subject, 'for the removal of obstructions in the corn trade of that part of the United Kingdom called Scotland.' This Bill also was withdrawn; and a subsequent one, introduced by the same noble lord, was equally unsuccessful. Within the last year the question has attracted a considerable share of public attention in Scotland, and in several places it has formed the subject of discussion at public meetings, and has given rise to some degree of agitation among those specially interested in the matter. The occasion of this renewed attention to the policy of the law was the decision of the Court of Session in the case of *Barns* v. *Allan*. But the increased interest in the subject may probably also be attributed to the fact, that the successful cultivation of the soil now depends very much on classes of persons, such as the manure merchant and mechanical engineer, whose capital and labour only a few years ago contributed but little to the ordinary operations of agriculture.

Course of proceeding adopted.

In proceeding to consider the subject into which we were directed to inquire, we used every endeavour to obtain such information as we thought likely to assist us in arriving at a satisfactory judgment. At an early period in our proceedings, we concluded that it was desirable, if possible, to obtain accurate statistical information, as to the number of sequestrations for rent annually applied for and carried through in the different counties of Scotland; and with that view we requested from the sheriff-clerk of each county a return of (1) the number of petitions for sequestration for rent of agricultural subjects, excluding urban and mineral subjects, for each of the twenty-five years from 1840 to 1864, both inclusive; and (2) the number of such petitions on which warrants for sale had been granted during each of the said years. We regret to state that the information obtained by us in this way has not been of such a nature, as to justify us in appending it to this Report. In several instances the returns made were very incomplete, and in others the sheriff-clerks informed us, that the records in their offices did not enable them to furnish us with any such return as we requested. While it is thus out of our power to present with this Report the statistical information which we desired, the mere fact of the insufficiency of the records in the offices of several of the sheriff-clerks, as ascertained by their failure to furnish the required information, is in itself an important and suggestive feature in connection with our inquiry.

Insufficiency of records of sequestrations.

Although unable to obtain in this way complete information on

Number

and classes of witnesses examined.

the particular point referred to, we have endeavoured to inform ourselves as to the operation of the present law of hypothec, and also as to the expediency of either maintaining or altering it, by calling before us a number of witnesses, representing all classes interested in or acquainted with the subject. We have held thirty sittings in Edinburgh, and have examined one hundred and two witnesses, including landlords and their factors or agents, farmers, bankers, corn and manure merchants, and also gentlemen from England whom we thought it of importance to call before us in order that we might be informed as to the state and operation of the law in that country. Among the witnesses so examined there have been several representatives of committees, which had been formed in some parts of the country, in consequence of the agitation we have already referred to as having recently arisen on the subject of the law, and the object of which was to obtain its repeal or modification. These committees placed themselves in communication with us, and we examined such of their members as they suggested to us as most likely adequately to represent their views. On the other hand, the names of persons in different districts, believed to be favourable to the existing law, were furnished to us by those possessed of local information; and ample opportunities were given to all to come before us who might have anything of importance to communicate. It may perhaps be the case, that fewer of the smaller and less wealthy class of farmers have come forward as witnesses than we might have expected, or perhaps than we might have wished, on account of its being represented to us that the interests of that class are peculiarly involved in any proposal for a modification of the law. But, on the whole, we are satisfied that the information laid before us has been very complete, and is exhaustive of the subject.

Difference of opinion among witnesses.

As might be expected from the variety of the classes of witnesses who appeared before us, we have found considerable difference of opinion to exist among them, both as to the expediency of maintaining or altering the present law, and also as to the nature and extent of any alteration or modification of it that may be considered desirable.

Views of those opposed to the law.

On the part of those who advocate the total abolition of the law, and the removal of all preference in favour of the landlord over other creditors of the tenant, it was represented to us that the law is unfair to the general dealer, inasmuch as, through the protection which it affords to the landlord, it frequently enables him, when a tenant becomes bankrupt, to obtain full payment of his claim for rent, while the other creditors generally receive but a small dividend, and frequently no dividend at all, the effects of the tenant being entirely swept away to satisfy the landlord's demand. Occasionally, it is said, this demand may amount to the rent for two years, the crop and stocking being hypothecated both for the year that is past and for the current year. Such a preference, it was urged, cannot but be most injurious to seed and manure merchants and other dealers who supply articles to the tenant on credit; and, among others, to the small tradesmen in the locality, who are

dependent altogether on the custom they receive from the neighbouring farmers. In particular it was represented on behalf of the manure merchants that, although the law might have had a show of fairness at one time, when little if any artificial manure was used, and the expenditure on a farm was very much less than it now is, circumstances have so altered in this respect, by the introduction and extensive application of foreign and other manures, and also by the use of expensive feeding-stuffs (the annual outlay of a farmer for these together frequently approximating to the amount of his rent), that the ground on which the law may be presumed to have been based—the protection, namely, of the landlord, as the person who contributes the great bulk of the capital to the production of the crop—no longer exists, and the law itself ought therefore to be abolished as unreasonable and unjust. The position of the small tradesmen, when a bankruptcy occurs, was represented as one of peculiar hardship; and it was said that no good reason exists, why the agricultural labourer should have a preference for his wages, while the carpenter and blacksmith who work on the farm are postponed to the landlord, and only allowed to rank with the other creditors. There is no peculiarity, it was contended, in the relation between landlord and tenant to entitle the former to any preference over other creditors; and, indeed, without any such preference, it was said that he frequently receives from the outlay expended on the farm by the tenant a sufficient benefit to compensate him for a temporary loss of rent. In addition to these grounds for introducing a material change in the law, it was further very strongly urged on us, and more particularly by several of the tenants of larger capital, that the height to which the rent of land in Scotland has risen is to be attributed in a great measure to the injurious operation of the law of hypothec, which enables landlords, in reliance on the protection afforded them by the law, to accept tenants of inferior capital or skill, whom they would not otherwise be disposed to trust. Part of the system, it was said, by which this inferior class of tenants is encouraged, is the system of back-renting, or postponing the terms of payment of the rent to a later date than the legal terms; this being done with the view of enabling such tenants first to realize their crops, and then to satisfy the landlord out of the proceeds. In this way, we were told, encouragement has been given to a class of men who ought either never to have been farmers at all, or to have been content with smaller holdings than they now have; and who, by offering for farms, have fostered a fictitious system of competition, through which the rent of land throughout Scotland has been unduly raised. The introduction of fore-rents, or bringing the conventional into conformity with the legal terms of payment, which many deprecate as an evil likely to arise from any change in the law, would, in the view of those to whose opinions we now refer, be an advantage rather than a disadvantage, as rendering larger capital necessary for prosecuting the profession of agriculture than is now required. On the other hand, it was urged by some witnesses, as a reason for a change in the law, that the preference now given to the landlord prevents banks from accommodating tenants with advances of money, and that tenants would be benefited by the increased

facility in obtaining loans which the abolition of the landlord's preference would bring with it. The power of the landlord under the present law to follow grain in the hands of a purchaser, if the rent for the year of which the grain is the produce has not been paid, was greatly objected to as contrary to general principle; and the private manner in which a sequestration by the landlord may be carried through, owing to the absence of any general system of publication of sequestrations, was stated to be injurious to the public, as inducing persons to deal, or to continue dealing, with a man who remains in a farm ostensibly in good credit, but over whose effects a sequestration may have been obtained by the landlord, and kept by him in suspense for security of his rent. Several of the witnesses who thought the abolition of the landlord's preference desirable, were at the same time decidedly of opinion, that greater facilities than now exist should be given by law for getting rid of an insolvent tenant.

Views of those favourable to the law.

On the part of those generally favourable to the maintenance of the present law, it was, on the other hand, represented to us, that the losses which manure-dealers and other traders suffer through the operation of the landlord's hypothec are very small, compared with the amount of the dealings in the course of which these losses occur; that the profits which such traders expect and realize from the employment of their capital are very much greater than the return obtained by landowners; and that such trifling proportion of loss as they do meet with is taken into account by them in fixing the prices of the articles in which they deal. These dealers also, it was argued, have it in their power, if they please, to regulate or alter their terms of payment from time to time, and, in any cases where they may think it prudent, to restrict their transactions to sales for ready money; and were the landlord's preference, and more especially his power of sequestration in security, to be abolished, they might, in case of a purchase by a doubtful tenant, take steps to obtain payment from his effects before the arrival of the half-yearly term of payment of the landlord's rent, and so leave the latter without any means of satisfying his claim. It was further urged, that a landlord who lets his farm to a tenant for a period of nineteen years, and so practically places it out of his own power for that long period, is in quite a different position from a merchant who deals only in isolated transactions from day to day, and who may cease dealing with a tenant of doubtful solvency whenever he pleases; and that this consideration was the more worthy of attention from the fact, that the greatest degree of care originally exercised in the selection of a tenant may, from his death during the currency of the lease, or from unforeseen changes in his circumstances, be wholly unavailing for the landlord's security. In this way, to place the landlord's claim for rent on the same footing with the claim of an ordinary dealer would, it was said, be to lessen very seriously the value of land, not merely as an investment, but also as a security, and would therefore affect very materially the position of the large class of persons whose money is lent on heritable bonds. With regard to the argument that the outlay expended on the farm

by the tenant places the landlord in so favourable a position as to render him secure independently of any preference which the law of hypothec may give him, it was represented that, so far from the land being improved by a tenant who falls in arrear with his rent, it is in the great majority of instances very much deteriorated; and, on the farm being relet, the landlord must either be content with a reduced rent, or must himself lay out a large sum in order to restore the land to a proper condition. The allegation that the security afforded by the law of hypothec induces landlords to accept of a class of men as tenants whom otherwise they would not accept, was denied by the landlords and factors who gave evidence before us. These gentlemen assured us that they never take the law into consideration in selecting a tenant, and that to trust to it as a security for obtaining payment of the rent would be most imprudent, and would certainly end in involving the landlord in difficulty and loss. It was denied that the law of hypothec has had any effect in the way of creating a fictitious competition for farms, or unduly raising the rent of land. The law, it was said, has existed for centuries, whereas it is only of very recent date that any such complaints as to its operation have been brought forward. The present high rents of land were attributed to the increased competition existing in all branches of industry, and to other causes of various kinds; among which in recent years were to be noticed the high prices of farm produce which prevailed about the time of the Crimean war, and the large sums realized by farmers in several districts of Scotland from the cultivation of potatoes, when that crop had been generally a failure in England. Above all it was urged, that the present state of the law is of fully as great advantage to tenants as to landlords. Thus the system of back-renting, which is closely connected with, if not dependent on, the existence of the law of hypothec, was described as highly favourable to a class of tenants very numerous in some parts of the country, and more especially in the poorer districts, where the land is only now being brought into cultivation—a class of tenants, namely, who rely more on their personal energy and labour than on their capital, and to whose exertions the agriculture of Scotland has been much indebted for the great progress it has made. Were a system of fore-rents to be introduced, we were told that it would become impossible for a large proportion of the class of tenants to whom we now refer to continue in their holdings, and that they would be compelled either to descend to the position of labourers on the farms of others, or to emigrate. That the abolition of the security at present possessed by the landlord would inevitably lead to the system of fore-renting where that system does not already prevail, was the opinion of a great majority of the witnesses. Many of them stated further that, under such a change in the law, security for the rent would uniformly be exacted from tenants, leading in the end to a general system of mutual cautionry, or of one tenant becoming security for another—a result very much to be deprecated; while some of those concerned in the management of land even anticipated the necessity, in such circumstances, of rents being prepaid. We were also told that independently of the assistance which, throughout the greater part of Scotland, tenant-farmers receive from the loan given to

them at a very cheap rate in the form of a back-rent, they frequently, in bad seasons and circumstances of temporary difficulty, derive much benefit from the indulgence which their principal creditor, the landlord, is enabled to give them in reliance on the security he possesses under his right of hypothec. Were that security destroyed, a different course would, it was anticipated, be frequently taken; and a tenant in the circumstances referred to, instead of being allowed, as he now is, to delay the payment of his rent, and take time for selling his produce to advantage, by which means he is frequently enabled to retrieve his position, would be treated with no indulgence, and left to sink under misfortune. The view that farmers now suffer through the inferior credit in which they stand with bankers, owing to the preference secured to the landlord, was met by the assurance which was given us, that bankers never take the law into consideration in dealing with tenants, and that money is advanced to them and their bills discounted on the same terms as those adopted with other traders.

Suggested modifications of the law.

On the question as to the policy of continuing the present law by which crop in the hands of a purchaser may be followed for payment of the rent due to the landlord, one or two witnesses of high standing, while admitting that this part of the law is very seldom resorted to, expressed to us views favourable to its maintenance, on account of the protection which it affords against fraudulent dealings to the prejudice of the landlord, which otherwise there would be great difficulty in checking. But the general view of persons otherwise favourable to the law as a whole, was that the right of the landlord to follow the crop in the hands of *bonâ fide* purchasers might be abandoned with safety and with advantage.

To the proposal for the publication of sequestrations there was far from a general assent on the part of the witnesses favourable to the present law. Many of them regarded it as a course which would confer little benefit on the public, and one which at the same time would be most injurious to the tenant, as having the effect of permanently ruining his credit, and so depriving him of any chance of recovering himself. Among the neighbours of a tenant under sequestration, it was said, his position is as well known as if it were published in the *Gazette;* and as they are the persons who are principally interested in knowing the fact, the publication would be an act at once unnecessary and cruel.

On the part of some, by whom the law is regarded as generally beneficial, it was considered that it might be advantageous, if it were practicable, to limit the landlord's preference to some extent; as, for example, that he should not be entitled to a preference over the other creditors for more than one year's rent.

It was also suggested to us, that the landlord's right of sequestration might be so restricted, as to require it to be exercised within a certain definite period after each portion of the rent becomes due, under the penalty of a forfeiture of the right as regards such portion. This proposal was directed against the power, which the landlord now has, of delaying the exercise of his right of sequestration until both half-yearly instalments of the rent have fallen in arrear, after

which he may proceed to sequestrate for the full amount of the year's rent.

We were urged by some of the witnesses to consider, whether a preference similar to that now possessed, in the case of a tenant's bankruptcy, by the labourers on the farm, might not be properly extended to the carpenter, blacksmith, and other artificers, whose services are equally necessary for its cultivation. And some other modifications of the existing law were suggested, to which it is unnecessary to refer particularly, but all of which have received a due share of our attention.

Views of Commissioners.

We have given to the whole subject the most anxious consideration, and we now beg humbly to submit to your Majesty the result of our deliberations.

Principle of the law should be maintained.

In the general principle of the law, under which the landlord of an agricultural subject has, in security of his rent, a preference over the crop raised on the ground, and the stock brought upon it by the tenant, we are not disposed to recommend any alteration. Our investigations have regarded the results of a system which has existed for centuries, not only without complaint, but as a subject of commendation, both by legal writers and by persons practically conversant with its operation. That system is intimately interwoven with the land rights of Scotland. Numerous analogies to it are found in other branches of our jurisprudence, and under its influence this country has undoubtedly made great advances in the science and practice of agriculture. We are inclined to think that, both on the part of the opponents of the present law of hypothec and of its supporters, the consequences which would be likely to result from its repeal may have been to some extent exaggerated. But such a measure would, in our opinion, certainly be followed by alterations in the tenancy of land in Scotland, which must act injuriously on the tenants, and especially on the smaller tenants, and would probably remove many of that valuable and industrious class from their present possessions. We should also anticipate, from the abolition of the existing law, other changes in the relations between landlord and tenant, which might operate very differently in different parts of the country, but the ultimate consequences of which it is impossible to foresee.

Alterations desirable.

While holding these views on the general principle of the law of hypothec, we think that there are some points in regard to which that law would admit of beneficial alteration. The provision of the law which has been most generally objected to is that under which a landlord, when the rent is unpaid, is entitled to demand re-delivery of the crop, or a second payment of its price, from any person by whom such crop has been purchased otherwise than by bulk in open market. That the power thus conferred on landlords has been so very rarely exercised as scarcely to amount to a practical grievance, is in itself an argument for the abolition of a rule which experience has proved to be unnecessary. Further, there are several districts of Scotland in which no bulk markets are held, and the increase of railway communication and other causes have, in many places, made sale by sample the most convenient way in which farmers can conduct

Bonâ fide purchases should be protected.

their business. On this account we consider it right, that the same protection against interference on the part of the landlord should be extended to sales by sample, as has been settled by long practice to attach to sales in bulk. We are also of opinion that it ought not to be necessary, in order to secure a *bonâ fide* purchaser against a claim for repetition, that the sale should have been made in open market. A change in the present law to the extent thus indicated would bring the rule regarding the sale of grain or other farm produce into conformity with that already existing in reference to live stock. Of course, sales in breach of sequestration ought not to be protected. And, as a means of preventing collusion, it would, in our opinion, be necessary, in order to make the sale effectual against the landlord's claim, that such sale, wherever made, should have been followed by delivery of the subject, and payment of the price.

With this exception, and one other to be noticed immediately, we do not consider any limitation of the right now possessed by landlords necessary or desirable. It is a circumstance highly creditable both to landlords and tenants throughout Scotland, that, taking the country as a whole, sequestrations for rent are of rare occurrence. In one or two districts they have, during the last few years, been more numerous than formerly; but it seems to us that these instances may be attributed to local and temporary causes; and they are certainly not sufficient to support the allegation, that it is a general practice among landlords, in reliance on the security which the law of hypothec affords them, to entrust their farms to a class of tenants whom otherwise they would not be disposed to accept.

There can be no doubt that, when sequestration is resorted to for obtaining payment of the rent, the other creditors of an insolvent tenant often suffer more than the landlord. But the evidence laid before us has entirely failed to show, that the losses of manure merchants and other dealers through the insolvency of farmers have been, on an average, greater than those which occur in other mercantile transactions, or that they are such as might not in a great degree be avoided by the exercise of ordinary caution.

The position of the smaller class of country tradesmen and artificers is somewhat different from that of the larger dealers, the range of their custom being more limited, while greater hardship is involved in cases of loss. We have therefore given a very careful consideration to the position of this class of persons, and to the suggestion that a special preference might be created in their favour; but we have come to the conclusion, that it would be impossible to propose the introduction of any such new preference. It seems impossible to distinguish in principle between the claims of such persons and those of traders on a larger scale; and it is obvious that the argument for their protection, which has been drawn from the preference given to the wages of farm-servants, fails in this respect, that the farm-servant is hired to labour on a single farm, and is dependent for his wages on the tenant of that farm alone, while the dealings of the country tradesman are distributed among the inhabitants of the neighbourhood.

The suggestion which was offered to us, that it might be advantageous to restrict the landlord's right of sequestration to the rent

for a single year, has received our fullest attention. But, on the whole, the conclusion at which we have arrived is, that no sufficient case has been made out for such an alteration of the law; and, on the assumption which seems to be implied in the proposal itself, that a landlord ought to have security for the rent payable during a tenant's occupation, there are serious practical objections to the proposal. Without an entire change in the ordinary periods for the payment of rent of arable farms, one effect of limiting the landlord's right in this way would be, that a tenant would frequently have entered on a year's occupancy, for the rent of which the landlord would be left without security, and during which the proper cultivation of the land might be attended with considerable difficulty. This is obvious when it is considered, that generally throughout Scotland the rent, or at all events the second moiety of the rent, for one year is seldom payable until the occupation for the following year has commenced.

Half-yearly sequestration.

It is a different question, whether evils may not arise from the power which the landlord has of keeping the exercise of his right in abeyance until the end of the year, as well as from the want of a sufficient system of registration of sequestrations. From either of these causes it sometimes happens, that the public are left to deal with a tenant, in ignorance that he is in doubtful circumstances, or, it may be, actually under sequestration. It may be true that the indulgence which the present state of the law enables the landlord to give, by forbearing to exercise the right to sequestrate until the last moiety of the year's rent is due, is often of use to the tenant, through the time which it gives him to sell his produce or stock to advantage. But there is considerable force in the objection, that this indulgence is to a large extent given at the risk of the other creditors of the tenant; and we think it not unreasonable that, if the landlord is disposed to grant the indulgence, he should also be made to share in the risk. We therefore recommend that the law should be altered, so as to deprive the landlord of the right to sequestrate for the whole year's rent, after omitting to do so for a half-yearly payment; in other words, that his right should be made to lapse as to each half-yearly or other periodical instalment of the rent, within a certain time after such instalment has become due, and before the next instalment is payable. A period of three months after any portion of the rent falls due appears to us a sufficient time for the landlord to be allowed to exercise his right of sequestration, and it is the same as that allowed at present after the last conventional term of payment of the rent for the exercise of the landlord's right over the cattle.

Registration of sequestrations.

We also think it right that the public should be enabled to ascertain, without difficulty, the fact that a tenant is under sequestration. With this view we recommend that a record should be kept in each sheriff court, in which every sequestration for rent granted in such court should be forthwith entered, and that no sequestration should be privileged without being so registered. We are of opinion that the publicity to sequestrations which will thus be secured, will afford a sufficient protection to the public against the risk of dealing with a man in ignorance of his position. It does not seem to us

necessary that the publication should be made in the *Gazette*. Such a mode of publication might have the appearance of being needlessly harsh to a man placed in temporary difficulty; and, by the course which we recommend, sequestrations will probably receive the same publicity as is now given to protested bills of exchange.

Certain points should be definitively settled.

In the event of any legislation taking place in conformity with these recommendations, we would venture further humbly to recommend to your Majesty, that there should at the same time be an authoritative declaration of the law as to certain points which, as far as we are aware, have not as yet been satisfactorily or definitively settled.

We have already stated that a question has been raised whether sheep belonging to a third person, taken upon an arable farm to be fed on turnips, are not liable to the hypothec for the whole amount of the rent of the farm. We think that this question should be settled in conformity with the practice by which the landlord's preference over grass-mail is enforced. Accordingly, it ought to be declared that the liability of the owner of the sheep does not extend beyond the amount of the consideration payable for the turnips; but that, to the extent of such consideration, and also to the extent of the grass-mail payable for cattle taken in to graze, the landlord's hypothec embraces the sheep and cattle.

It has also been a question whether, in the case of an agricultural subject, the hypothec extends to the household furniture of the tenant and to the implements of husbandry. Professor Bell, in his Commentaries (Shaw's edition, vol. ii. p. 880), says, 'It has not been decided whether the furniture of the house and implements of husbandry are also included, although it is generally understood to extend to both.' But he adds, 'The same principle which led to the extension of the hypothec over cattle, sanctions in no degree an extension of it over the house furniture or implements of husbandry.' In general practice, we believe that the household furniture has not been included in cases of sequestration. In regard to the implements, the practice seems to have varied, and they are very often included. We think that neither the furniture nor the implements ought to be included, and we recommend that this should be so settled by a declaratory enactment of the Legislature.

Following the same principle, we think it desirable that it should be declared by the Legislature that the hypothec does not, in the absence of express stipulation in the lease, extend to imported manures not yet applied to or incorporated with the soil, or generally to any articles introduced into the farm, but not yet applied to the purposes for which they were intended; as, for example, to imported feeding-stuffs not yet consumed. We are not aware that any question as to the liability of such articles has been raised; but, on principle as well as in equity, we think they ought not to be held liable, and that it would be of importance that their non-liability should be authoritatively declared.

Recommendations.

In conformity with these views, we beg leave humbly to report our opinion, that the law relating to the landlord's right of hypothec in Scotland, in so far as regards agricultural subjects, ought to be

altered; and the following are the alterations and explanations of that law which appear to us to be desirable:—

I. That, whenever any agricultural produce shall have been *bonâ fide* purchased by any person, and shall have been actually delivered and removed from the farm, and the price thereof paid, the landlord's right of hypothec over such produce shall cease and determine: Provided always, that nothing to be enacted in this respect shall defeat, abridge, or affect the landlord's right of hypothec over any such agricultural produce before the completed delivery and removal thereof, and payment of the price: And also provided, that nothing to be so enacted shall apply to any such agricultural produce which has actually been sequestrated previous to the purchase of the same being completed.

II. That, in the event of the landlord failing to exercise his right of hypothec within three months after the day or term at which the rent, or any portion thereof, is payable, such right for the rent or portion thereof then due shall cease and determine.

III. That at each court where sequestration at the landlord's instance for the rent of agricultural subjects is in use to be granted, it shall be imperative to keep a register, to be entitled the Register of Sequestrations for Rent; and, on the granting of any such sequestration, there shall be immediately entered in such register the name of the tenant whose effects are sequestrated, the name of the landlord at whose instance the sequestration takes place, the amount of the sum for which such sequestration is sued out, the farm or premises possessed by the tenant, and such other details as may be specified in the enacting statute; which register shall be patent to the lieges, under such conditions as the statute shall prescribe.

IV. That, in the absence of any special stipulation in the lease, when a tenant shall have sold any growing crop to be consumed on the premises by live stock belonging to any other person, or shall have taken in any such stock to be grazed or fed on the farm or premises, such stock shall be liable to the landlord's hypothec to the extent of the amount of consideration agreed to be paid by the owner thereof to the tenant, and no further: Provided always, that the consideration so agreed to be paid shall be a fair and *bonâ fide* one; that while such stock, or any portion thereof, remains on the premises, the liability shall continue to the full extent of the consideration originally agreed upon, notwithstanding that a portion of the crop may have been consumed; and that, in the event of the removal of the stock, while the consideration is unpaid, the landlord's right of hypothec over such stock shall subsist for such unpaid consideration.

V. That, in any case of sequestration for the rent of an agricultural subject, where any agricultural produce or stock shall be sequestrated, the sequestration shall not apply, and it shall not be competent to make it apply, to household furniture or furnishings,

or to any agricultural implements; nor shall it be competent, except as hereinafter provided, to include among the sequestrated effects any imported manure, lime, drain-tiles, feeding-stuffs, or other material, not being the produce of or made upon the land, and not at the time incorporated with the soil, or consumed, or otherwise applied to the purposes for which they had been procured: Provided always, that, where manure of any kind has been brought upon the farm in fulfilment of any obligation imposed on the tenant by the lease, such manure may competently be included in the sequestrated effects.

All which we humbly submit to your Majesty's consideration.

W. GIBSON CRAIG.
CHARLES CARNEGIE.
CHAS. LAWSON, Lord Provost.
G. YOUNG.
ROBERT DUNDAS.
A. CAMPBELL SWINTON.
T. G. MURRAY.
J. S. FLEMING.
GEORGE HOPE.
PETER M'LAGAN.
ADAM CURROR.

DISSENTS.

We think it proper to state that, while we concur in the propriety of the changes of the law recommended in the Report, we do not concur in the conclusion at which the majority of the Commissioners have arrived,—not to recommend any alteration in the general principle of the law under which the landlord of an agricultural subject has, in security of his rent, a preference over the crop raised on the ground, and the stock brought upon it by the tenant; and that in our opinion a larger change than any suggested in the Report might be made with safety and advantage to the agricultural interests of the country.

CHARLES CARNEGIE.
G. YOUNG.

While we have signed the foregoing Report, we so far dissent from it, inasmuch as we consider it to have been conclusively established that the law of hypothec in regard to agricultural subjects in Scotland confers an amount of preference in favour of landlords, not only opposed to the established principles of commercial law and the tendency of all recent legislation, but which is in itself also manifestly unjust. By means of decisions of the Supreme Courts alone, and these decisions obtained at a very early period, proprietors in Scotland have become possessed of powers and privileges for the security and recovery of rents, unknown in England and Ireland, where payment is enforced under statutory enactments. While freely admitting that the great majority of landowners in Scotland desire to manage their estates in a liberal and judicious manner, and that many of them never, or only very rarely, put the law of hypothec into operation, so far as the recovery of rents is concerned, yet it has been proved to us that, in some particular localities, as well as in a number of isolated cases, the undue advantages which this law confers have been most freely used, causing ruin to the tenants on such properties, and great injustice and loss to their ordinary creditors, besides having frequently a baneful influence on the farmers of adjoining estates. The absolute security which the hypothec confers permits the payment of rents to be postponed to conventional terms, varying from twelve to eighteen and twenty-one months after the legal terms at which such rents fall due; and this postponement appears to be the rule followed in most districts, although a more healthy system is adopted in some places, particularly in the shires of Caithness and Inverness in the north, and in those of Dumfries, Wigtown, and Kirkcudbright in the south. It is evident, by means of the law of hypothec, a proprietor can effectually secure his first year's rent in preference to the ordinary creditors of his tenant, almost within two and a half years after the tenant's entry to the farm. This injustice is aggravated by the practice which extensively prevails, of giving to tenants at

Whitsunday possession of grass and fallow land varying in extent from one-sixth part up to three-fifths of the whole farm, and that without payment of any rent, but simply upon their undertaking to give up at removal, and before reaping the last crop, the same extent of grass and fallow ground which they received at entry. But besides this, the whole manure made from the previous crop is frequently delivered to incoming tenants free of charge, and still more commonly the straw also of the last crop is 'steelbow,' or the property of the landlord. When we consider, that with all this there is conjoined complete security for payment to the landlord of the rent due for the past, and also for the current year, it is evident, when a tenant fails, the dividends payable to his ordinary creditors from the residue of his estate must be of the smallest amount. Neither is this a trifling matter, as of late years the necessary transactions of farmers with other classes have immensely increased; and, perhaps, it is not too much to say, that without the valuable assistance of tradesmen, manure dealers and others who supply furnishings to farmers, present rents could not be paid, nor modern agriculture carried on. The certainty also that landlords have of receiving, at least for a time, almost any amount of rent that may be offered by any candidate for a farm, places all offerers so much on a level, whether they are possessed of capital and skill or not, that a strong and prevalent inducement is held out to proprietors to select the highest offerer as tenant without due regard to his suitableness in other respects. The comparative poverty of tenant-farmers as a class was much insisted on by some witnesses in favour of the law; but even if this be true to the extent stated, it only tends to disprove the theory, that the existing law of hypothec enables tenants with little or no capital to increase in wealth, and become independent or more extensive farmers. Neither is this general poverty matter for surprise, as, under the circumstances detailed, capital must naturally be diverted from the cultivation of the soil, and flow into other channels, where its legitimate importance is fully recognised and rendered available under the administration of more equitable laws. It also appears to us to have been undeniably established, that the law is not required for the recovery of rents on well-managed estates; and that, in those instances where it is called into operation, it is alike detrimental to the tenants and their ordinary creditors, and not less so to the best interests of the landowners themselves. The amendments proposed in the Report certainly tend to mitigate some of the more prominent objections to the law, but its greatest evils are left untouched; and we are convinced that, due regard being had to existing leases, the total abolition of the law is imperatively demanded, both by justice and expediency.

GEORGE HOPE.
ADAM CURROR.

MINUTES OF EVIDENCE

TAKEN BEFORE

HER MAJESTY'S COMMISSIONERS

APPOINTED TO CONSIDER THE

LAW RELATING TO THE LANDLORD'S RIGHT OF HYPOTHEC IN SCOTLAND,

IN SO FAR AS REGARDS AGRICULTURAL SUBJECTS.

Presented to both Houses of Parliament by Command of Her Majesty.

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1865.

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HYPOTHEC COMMISSION.

MINUTES OF EVIDENCE.

Monday, 12th December 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.	MR FLEMING.
THE SOLICITOR-GENERAL.	MR HOPE.
MR DUNDAS.	MR M'LAGAN.
MR MURRAY.	MR CURROR.

(1.) JOHN GIBSON, JUN., ESQ., W.S.

John Gibson, W.S.

By the Chairman.—I am a Writer to the Signet of forty-five years' standing. I am extensively employed in the law management of estates, and in the preparation of leases. I am agent for the Duke of Buccleuch; for the Douglas estates, now belonging to the Countess of Home; for Lord Home's own estates in Berwickshire; for the Whittinghame estates in East Lothian and Berwickshire; for farms of the Marquis of Northampton in Kinross-shire; for Sir John Nasmyth, in Peeblesshire, and some others. The number of tenants on these estates whose rents exceed £50 is upwards of 600, and I have the leases to prepare for all these. Generally I am consulted in regard to all legal proceedings taken in connection with these estates for the recovery of rents, though there may be occasional cases of legal procedure in the country which are not referred to me. The practice on these estates as to the term of entry to farms, and the terms at which the rents are payable, varies considerably. Some are fore-rented, *i.e.*, the rent is payable before any corn crop is reaped; others are back-rented, the rent being payable after the crop has been reaped, and sufficient time allowed to bring it to market. Out of the 600 leases which I have the preparation of, no less than 442 are on the Duke of Buccleuch's estates in the counties of Dumfries, Roxburgh, and Selkirk. A good many of these farms are entirely pastoral, some are largely pastoral, and others (though a comparatively small number) are arable; but even in reference to those entirely arable, the same terms for payment of rent have been introduced for convenience. In all these 442 cases, the tenant enters to the houses, grass, and fallow at Whitsunday, and he pays his first half-year's rent at Candlemas of the following year, and his next at Lammas following; so that he pays an entire year's rent before he has reaped any corn crop, but he has had very nearly two years' possession of the grass, and in the case of a pastoral farm, he has got all there is to get. That is popularly called fore-renting, though it is not strictly speaking so, because the tenant has got a great deal of value from the farm before he pays anything. Some of the Douglas farms are very much in the same position; but some of them are back-rented, and some fore-rented, a great part of the farms consisting of pasture. The practice as to the Duke of Buccleuch's farms in Mid-Lothian is different, because the tenant generally enters at Martinmas; but whether at Martinmas or Whitsunday, he pays no rent till after he has reaped a crop. For example, if he enters at

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Martinmas 1864, he will pay nothing till Martinmas 1865, after the crop has been reaped. That is also the practice on the other estates with which I have to do, some of them being still farther back-rented. For example, if a tenant enters at Martinmas 1864, no rent is asked till Whitsunday 1866, the next being at Lammas 1866; that is the case on the estates of the Countess of Home in Angus. On some of the Douglas estates in Lanarkshire, the farms are farther back-rented.

I am aware of the general provisions of the law of hypothec as applicable to agricultural subjects. *Q.* Have you had frequent occasion to take advantage of that law on the part of the landlord?—*A.* Very rarely. If you ask whether I have often seen instances of tenants being sequestrated, I can say that I have been very fortunate in that respect, for I have only seen it perhaps a dozen times in the course of my professional experience; but, if you refer to the operation of hypothec by following the crop, that is very rare indeed,—I have only had occasion to do it in one case, and I did it successfully. That was a case in which a tenant sold all his wheat and barley to one person. I thought he was in collusion with the tenant, though I could not prove it; but that made me rigorous in instituting legal proceedings, and I got back the price from the purchaser. As I have said, even the process of sequestration has been very seldom resorted to in my experience; but I have had to do with a very respectable class of tenants. The resident factors on the estates, for which I am agent, may have instructed some local agent to apply for a sequestration, without my hearing of it; but if it went far, I would be sure to hear of it.

I think the existing law operates beneficially, so far as both landlord and tenant are concerned. The landlord enters into a contract with the tenant, by which he cedes possession of his land, for it may be nineteen years, and asks no security beyond what the law of hypothec gives him. The tenant, therefore, has the very great advantage of having the landlord's capital put into his hands, without being asked to pay anything till he has reaped a substantial profit from the subject; and I do not know any mercantile contract where such advantages are given to one of the parties. I am not prepared to give a very decided opinion, whether the law operates injuriously to the mercantile class or not; but I think it is evident that it cannot be a great evil, because, on looking into the books, I only find three or four cases at the most that have occurred, where this has been made the subject of judicial discussion for the last century and a half. It cannot, therefore, I think, have interfered much, if at all, with the general trade of the country, or we would have heard a great deal more of it.

In 1850, Lord Brougham brought in a Bill, entituled 'An Act for the Removal 'of Obstructions in the Corn Trade of that part of the United Kingdom called 'Scotland;' and, as a member of a committee of the Writers to the Signet, I prepared a report on the measure, embodying the views which occurred to me, and that report was approved of by the committee, and printed and sent to London. The first Bill was withdrawn, but a second was immediately introduced, on which I also reported. My report was approved of by the Society of Writers to the Signet. I rather think there was no difference of opinion about it. I may quote the following extract from it:—'In consequence of the securities thus afforded to 'the landlord by hypothec, he is enabled to deal very *liberally* with his tenant. 'He does not hesitate to enter into a contract, by means of which the tenant 'obtains undisturbed possession of the lands for the long period, it may be, of 'nineteen years; and, if satisfied with the tenant's character and circumstances 'at the commencement of the lease, he readily takes the risk of all the vicissi-'tudes, which, through this long period, may affect his tenant's circumstances. 'Further, instead of demanding personal or other security for his rent, which 'might often embarrass a tenant, and prevent an industrious man of moderate 'means from obtaining a lease, the landlord looks to *the produce of the land* for 'his safety, the law having given him the power, by his hypothec, of securing 'his own share of the produce of his own land. Again, in many cases he post-'pones the term for payment of the rent until the crop has been reaped, and 'until the tenant has had an opportunity of bringing it to market at the proper 'season, and in the ordinary way.' I may also read a paragraph from the addition to the report on the second Bill:—'The right of hypothec being 'virtually abolished, *except where sequestration has been used*, is there not reason 'to fear that this diligence will become much more common all over the country 'than it either is at present, or ever has been? No other remedy being left to

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'the landlord, he will be compelled to have recourse to this for his own protection; and the inconvenience and expense to him of such judicial proceedings, though not in themselves trifles, will be the smallest part of the evil. The interruption to the tenant's ordinary management of the farm, the ruin to his credit, and the loss of all friendly feeling betwixt him and his landlord, will be the inevitable, and the much more serious consequences. At present, sequestration is seldom used, except where the tenant has either been guilty of some glaring impropriety, or is known to be *vergens ad inopiam;* but the case will be very different when the right of hypothec is abolished, and the landlord has no security, except that of placing the crop under the custody of the sheriff of the county. He will then, however reluctantly, be forced to harsh measures for self-protection; and thus suspicious jealousy on the one hand, and irritation and discontent on the other, will be unavoidable. It is not to be supposed that such a wretched state of matters will always continue; but the only remedy will be a material change in the relations of landlord and tenant, a shortening of the duration of leases, the acceleration of the terms for payment of rent, the rigid exaction of rent at the stipulated term, or the demand for personal or other collateral security, and, as a necessary consequence, the expulsion from their present position of a humble, but industrious and most useful class of the community—the poorer tenantry of Scotland.' These were my views at that time, and I remain of the same opinion.

I take it for granted, that, if the law were abolished, the Legislature would not interfere with existing leases; but in making a new lease, after the abolition of the law, I would advise the landlord to make the terms of payment of rent earlier, and rigidly to exact the rent when the term-day or the term-week arrived; and I think that would operate prejudicially, in many instances, to the interests of agriculture.

To the Solicitor-General.—Apart from the actual enforcement of the law of hypothec, I think it has this indirect operation—that a tenant, knowing it to be in existence, will be on his guard in disposing of all his crop till his rent is paid. I don't think the law is ever put in operation, except where the tenant is insolvent, or supposed to be so. Of course, where he is solvent, and able to pay all his debts, it is of no use to the landlord.

The 'acceleration of the terms for payment of rent,' which I point at in my report, in the event of the landlord being deprived of the security of the present law, would be the introduction of the practice followed on the Duke of Buccleuch's farms in the south country—viz., to make the first half-year's rent payable six months after entry. Of course, if the landlord got a half-year's rent at entry, that would be a great security; but that could not be got. That would be the security of prepayment. Where farms consisted partly of grass and partly of corn, the entry to the houses and the grass being at Whitsunday, and to the corn land at separation of crop, I would recommend that the first half-year's rent should be payable at Martinmas; that would be before the tenant had possession of the corn land at all, and would be prepayment, so far as regards it, though not perhaps strictly so, because Scotch farms are becoming very much stock farms, and even in the low country a good tenant is always anxious to get his fences made so as to have sheep. Failing that, I should recommend the landlord to exact some security, by caution or otherwise, for the payment of the rent.

I think the necessary consequence of this would be to exclude the poorer class of tenants as competitors for farms. Some of the richer farmers talk of it as an evil that there should be so much competition for farms; they complain that people come in who are not bred farmers, and that that prevents them from getting farms so cheap as they would otherwise do. But I have known instances of most excellent farmers who had very little capital, who could not have gone on if the payment of rent had not been postponed, and who have turned out beneficial tenants to the landlord, and done remarkably well for themselves. The effect of excluding these men from competing for farms would be, I think, to diminish the rents in many cases. I think that, under the present system, the landlords get higher rents in many instances than they would do under an altered system. The landlord is secured against the risk of these tenants of inferior credit or capital not paying their rents, by the hypothec; that no doubt operates against creditors who have no security, but it does so no more than any other legal preference. One operation of the present law is, that it enables landlords

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to let their farms at a higher rent to tenants of inferior capital and credit, without risk to themselves; the disadvantage might therefore be to the other creditors. If the hypothec were abolished, I think it very likely that landlords would be more cautious in inquiring into the pecuniary circumstances of parties who offer for the farms. The effect of exacting prepayment of rent or security would be to drive a good many persons who now offer for farms out of the market altogether. I think that would be to the disadvantage of landowners and the country generally; because, under the present system, a number of most industrious men have got into the position of tenants of farms, and I am not sure that the persons who would supplant them would do so much good to the country. You might get another class of men; but the poor, hard-working, industrious tenants have done a great deal for Scotland.

But for the hypothec, I think the tenant would probably not be so particular in paying his rent. Though it is not put in force, the fact that it may be put in force leads him to pay regularly. I don't think tenant-farmers, in proportion to their number, become insolvent so often as persons engaged in other trades. Without the hypothec, if leases remained as they are, I think landlords would very often be exposed to the risk of loss; but whether that risk would occur more frequently than it occurs to persons in trade, I have no means of judging.

To Mr Dundas.—The difficulty of early payment in the case of corn-rents might be got over by adopting the rule which is adopted in reference to the payment of teind, which, in some instances, depends on the fiars prices: at Martinmas a certain sum is paid to account, and when the fiars are struck the balance is paid. It could be done in that way, but it would be very inconvenient; and that is an objection to the substitution of fore-rents for the present system. I am not prepared to say, whether the higher rents which the landlords get in consequence of the hypothec do more than cover the loss which they suffer by lying out of them for so long a period. In some instances, I dare say, they do not, but in others they may do more. I have no doubt that, if the law were abolished, the landlords would protect themselves by short leases containing stringent clauses, voiding the lease altogether in the event of payment being in arrear for more than a few months; and the tenants might find themselves worse off in regard to the security of their tenure, than they are at present. If they were not able to pay punctually, it would create a great revolution in the mode of management as between landlords and tenants. I am not sure that the sequestration of a tenant always implies bad management of the farm, but it may; and a bad tenant is likely to do a vast deal more injury to the farm than merely not paying the rent; still, if he is misbehaving, he can be looked after. I do not believe that the law of hypothec has caused any deterioration of the class of tenants. There are always excellent men to be found for the farms which I have anything to do with.

To Mr Carnegie.—The tenants on the Duke of Buccleuch's estates in the south of Scotland are a highly respectable class, and many of them very wealthy; but I should not like to say whether they or the Duke's tenants in Mid-Lothian are most wealthy. I have not found that the fore-renting of the farms in Dumfriesshire excludes the smaller class of tenants; but the Duke's farms are not to be considered as in that respect necessarily an example of what occurs in the country generally, because his Grace's farms are not rack-rented; they are moderately rented, and he is a most liberal landlord, and able to do what many other landlords cannot do. There is always a great competition for his farms. In selecting a tenant, I would take a man with sufficient capital to work the farm, so as to do it justice; but, if I were to ask him for a year's rent before he got anything from the farm, I could not expect him to make a bargain with me. If the law of hypothec were abolished, I have no doubt the Duke of Buccleuch, and landlords like him, would have no difficulty in letting their farms at a fair rent to tenants with capital; but I believe other proprietors would have difficulty in getting the same rents which they have been accustomed to get. There is a certain demand at present for farms, which, in consequence of the law of hypothec, is greater than it would be if that law did not exist; the consequence would be, that landlords would be more at the mercy of those having large capital than they are now, and would be obliged to reduce their rents. A landlord must get his land let; and if he gets twenty applications for a farm at present, and only ten under the change of law, the

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chances are that he does not get the old rent. I believe the large tenants would like to throw farms together, so as to make large possessions; but they would not give the rents which the poor industrious tenants give. *Q.* In the event of the present security being abolished, but the landlord getting a preferable security over everything, in the event of the tenant's bankruptcy, for a certain amount of rent, would it be necessary to take the same steps, which you have mentioned, for the landlord's protection?—*A.* If he had a preferable security over everything, that would put the landlord in a better position; but I don't think that would be just. I have no objection, however, to the security being kept in any shape.

To Mr M'Lagan.—I don't think the landlord with his hypothec is necessarily so well placed as a creditor in a mercantile bankruptcy, who has the security of a solvent cautioner, or of a bond over his debtor's property, although he may be, and generally speaking is, if he is attentive to his interests. I think that creditors in the case of a mercantile bankruptcy are in a worse position than in the case of a tenant's bankruptcy, because, in the case of a tenant, it is always known that the landlord has the security of the hypothec, and people who deal with him have that in view; whereas parties dealing with merchants have no access to know what securities they may have granted, unless they are heritable securities. If the law of hypothec were abolished, the tenant would require more capital than he does under the present law. If rents were forehanded, he must not only have sufficient capital to stock his farm, but to pay his rent before getting a crop. If he had a farm of 300 acres, and had only sufficient capital to stock that farm, he would be obliged to give up farming, or to take a smaller farm. I should think the effect of that would be to lower the status of the tenant. The result would probably be to make larger farms, though he would be a very bold man who would predict positively what the result might be. It might operate in the way of splitting down the farms, because a man might not be able to farm 300 acres, and be able to farm 150 acres, and there would be a larger number of competitors for farms. But it is difficult to say what the effect would be. Certainly there would be a great revolution in the management of land. I know of no reported cases in reference to the following of crop, except one in 1640, one in 1833, and the recent case; but the law of hypothec has never been disputed.

To Mr Murray.—The result of making rents forehanded would be to lessen the tenant's capital by a year's rent. I think, in that case, a great number of small tenants who take farms now would be unable to do so. I consider that these small tenants are a class of economical, hard-working, industrious men, who have done a great deal of good to the country. Amongst the tenants I have to do with there have been very few sequestrations; and I should not say that sequestration is more common among the industrious, hard-working class, than it is in reference to the class which appears to occupy a higher status. The result of abolishing the law of hypothec might be to make larger farms; but it is possible that the opposite might be the result, because, if a tenant was not able to take a farm of 300 acres, it might be split down and made into two farms of 150 acres each. There is a great disadvantage in splitting down farms in that way, because it involves a new steading, which is always expensive. Probably it is more likely that the effect would be to make the farms larger, though I should wish to speak with great diffidence as to what is prospective. My opinion, however, is that the change would be detrimental to the smaller class of tenants. In my own practice I have only had one case in which the crop was followed; and there the circumstances were suspicious, because the whole wheat and barley crop of the farm had been sold to one individual, who was connected with the tenant by relationship,—a very wealthy man, who no doubt gave the tenant full value for it; but I thought the proceedings so improper, that I applied to the sheriff, and succeeded in getting the rent paid.

To Mr Curror.—I cannot say whether, in the case of the Duke of Buccleuch's farms which are fore-rented, less rent is got in proportion for the large farms than the smaller ones. I prepare the leases, but I do not make the bargain with the tenantry.

To the Solicitor-General.—Generally, if his Grace has any doubt of the value of the farms, he gets them valued, but he is a good judge himself of what a farm is worth.

To Mr Hope.—It does not follow that, because a tenant who has occupied a

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farm for nineteen years might not be able to fore-rent it on a new lease, he has not had a good bargain of it; he may have lived expensively, or had an extravagant family, or settled his family respectably in the world.

To Mr Fleming.—*Q.* Supposing there had been no fraud as between the tenant and the purchaser of the crop, do you think it is desirable to maintain the right of the landlord to follow it?—*A.* I would not object to a limitation in point of time. I believe, according to the present law, the landlord can follow the crop, the rent of which is not paid, at the distance of any number of years. I would not stand up for that. I would have no objection to the time being limited, but I don't think the landlord should be bound to state fraud. I think he should have a right to follow it for a reasonable period, because it is produced by his capital; on the faith of it, he has given the tenant possession of his capital for the time. I think the advantages connected with the law of hypothec are so great, that though it looks a hardship to follow grain purchased in *bonâ fide,* I would not abolish it. *Q.* Do you see any difficulty in altering the law to the extent of depriving the landlord of the right of following grain where there is no fraud?—*A.* At present, if grain is sold in bulk in the market, the landlord cannot follow it. At Dalkeith, and also, I think, in Edinburgh, the grain is brought to the market and sold in bulk, and, whether the tenant has paid his rent or not, a sale there is good and effectual, and the purchaser cannot be asked to pay again; that is an important limitation of the right. With the exception of the two or three cases which I mentioned, I have never heard any complaints of the law; and, therefore, I think it very undesirable to abolish a system which has worked so well, and has such an important bearing on the agricultural interests of the country, merely on account of a few cases of apparent hardship.

To Mr Carnegie.—I don't think that the security which the landlord has over the crop weakens the credit of tenants with merchants and bankers. I never heard of its doing so. The circumstances of a thriving tenant are very well known in the district where he lives, and no wise merchant will deal with a tenant whom he knows as likely to become a bankrupt.

To the Solicitor-General.—The limitation as to following the crop ought not to be so short as to make a tenant bring his grain unnecessarily rapidly into market. I should say I would not extend the right to follow it, beyond a year after the term when the last half-year's rent should have been paid. I know that Dalkeith, Edinburgh, and Haddington are bulk markets. I think there is one at Hawick also. The purpose of making rent back-handed is to enable the tenant to dispose of his crop, or part of it, before he has to pay even the first half-year's rent, and with the view of paying his rent with the money which he gets for it. *Q.* Is not the effect of the present law, that it is not the landlord who takes the risk of the tenant paying his rent with the money which he so gets for the crop, but the purchaser who has paid the price for it?—*A.* If it is sold by sample or privately. *Q.* What is the difference to the landlord, if he intends that the crop shall by sale be turned into money, whether it is sold in bulk or by sample?—*A.* In the one case there is the fair, above-board, open-handed procedure of the tenant going into the market, his landlord being aware of it; the other is a quiet, concealed, unknown sale. I don't say there is fraud; but he wants money at the time, and he thinks the landlord can wait. The practical difference is, that it is perfectly well known that the object of the tenant in going to the market is to get money to pay his rent; in the other case, it may not be so. *Q.* Take a district in Scotland where there is no bulk market, and where, consequently, the landlord must contemplate that the crop is to be sold otherwise without fraud, what is the difference to the landlord whether it is sold in bulk or by sample?—*A.* If there is no bulk market to which the crop can be taken, and if every sale must be by sample, I don't see that the landlord could object to a sale by sample. *Q.* Has an honest purchaser, who buys the grain and pays the price, any means of protecting himself?—*A.* Yes, he can ask if the tenant's rent is paid. *Q.* But it is not due; on the contrary, the term of payment is postponed to enable the tenant to sell?—*A.* Then the purchaser must consider whether on the whole the man's credit and the state of his finances are such as to entitle him to deal with him. *Q.* So that you think it a reasonable thing that the purchaser should consider the tenant's credit, and be cautioner to the landlord for the rent, rather than that the landlord should take the risk of the tenant of his own choice?—*A.* I think so, to the extent already explained.

To Mr M'Lagan.—I do not know whether bankers give advances freely to

tenants at present. *Q.* Have you ever heard it stated that the progress of agriculture in Scotland is due very much to the credit which bankers have given to tenant-farmers?—*A.* I think that is very likely. Credit judiciously given is of great value in promoting any interest. John Gibson, W.S.

To Mr Murray.—One advantage of a sale in a bulk market is that it is made at a known time and place, and it is a very simple mode of transacting business. The tenant brings his cart to the market with the corn, and goes back with the money in his pocket; whereas, if it is sold by sample, he does not get the money till it is delivered. If there was no bulk market, there would be no difficulty in the tenant giving his landlord notice that he was about to sell; but the tenant might omit or forget to do so.

(2.) Mr WILLIAM GRAY.

To the Chairman.—I am tenant of Southfield, Mid-Lothian, the property of the Marquis of Abercorn. My farm is about 200 acres (Scotch), or 250 imperial acres; and I pay from £1000 to £1200 of rent. It is forty years since I commenced farming, and I have been at Southfield since 1847. I entered at March. It was a sub-lease, and I took at a valuation the work done from Martinmas before that. It was a Martinmas entry, and the first year's rent was payable at Martinmas following. The farm is entirely arable. I never felt any inconvenience personally from the law of hypothec. I think it operates prejudicially to the interests of agriculture—both to landlord and tenant. I think it has a tendency to raise unduly the rent of land, by bringing in as competitors tenants who have not sufficient capital. It makes a landlord not so select with his tenants, because he knows that he has a prior claim over all other creditors. I think that is unfair to men possessed of capital, who engage in the profession of farmers. The practice of agriculture ought to be limited to men who have sufficient capital for the land they farm. The landlords have at present a security in the large amount of outlay which tenants make on going into a farm, and which no other creditors can touch. The amount which they expend on draining, cleaning, and manuring, and general permanent improvements, is a considerable security to the landlord, as compared with other creditors. A tenant ought to have sufficient capital to make these improvements, and to pay his rent. My opinion is, that the law of hypothec should be abolished, allowing the landlord to come in with the other creditors. I would, however, go the length of giving him a preferential per-centage above the other creditors. I have not considered how much that per-centage should be. I don't see why landlords should make any change on the terms for payment of rents if the law were abolished. If they look out for honest, industrious tenants, who would pay their rent one year after entering on the farm, I don't see that they need any security. William Gray.

To Mr Dundas.—Where the landlord is aware that the tenant has sufficient capital for the land, and that he is an industrious, honest man, I think he runs no great risk by letting his land to him, and getting one half-year's rent at Martinmas, and the other at Whitsunday—the rent being all paid off that year's crop; and, besides, he has the stocking on the farm, and the household furniture.

To the Chairman.—If I enter on a farm, and invest in it £3000 of my own capital, and give my name to a lease, and pay my rent at these terms, I don't see what further security the landlord requires. He should make careful inquiry about the tenant before he gives him the farm. I believe that is done; but very often landlords admit that it is the men with least capital that offer most rent. I think the abolition of the law of hypothec would make them a great deal more cautious in letting their land to tenants without sufficient capital for what they are undertaking. That might diminish the competition for farms to a certain extent; but if it is an undue competition, fostered by that law, the sooner it is abolished the better. With some landlords, I think an undue competition is fostered. I think the present law very unfair to merchants, who may supply manures, seeds, etc., and, indeed, to all tradesmen and others who may have occasion to deal with them.

To the Solicitor-General.—The landlords also suffer from the present law, in this way—that, supposing a good tenant to get into difficulties from a succession of bad seasons, or from loss of cattle, his friends would be disposed to assist him

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if they were not aware that the landlord would take everything. If there was a fair division of his effects, I think an industrious tenant would be supported in such circumstances, to the advantage of the landlord. It is according to my experience, that tenants, who would have been supported through such difficulties by their friends, have not been so, on account of the landlord's hypothec. Where tenants have been driven out of their farms by insolvency, I know it has been the case that landlords got the farms back in a more valuable condition, on account of the improvements made by the tenants. It is also the case that landlords get back their farms in a deteriorated state. If he is a bad tenant, the landlord seldom gets the farm back in an improved state. I cannot say which of these cases is the most common. If the tenant is allowed to work away for years after he gets short of capital, the landlord is likely to get the farm in a worse state; but if he gets it nearly at the beginning of his lease, he gets the land in a better state. Landlords often give indulgence to a tenant, and continue him for a year or two, when it would be better for himself, and all concerned with him, that he should be out. In some cases that is done.

To Mr Carnegie.—I think the law of hypothec has also a tendency to prevent tenants from getting credit from other parties, and from banks. If farms were fore-rented, it would have an effect in preventing smaller tenants from taking farms if their capital was short. It would make more capital necessary.

To Mr Dundas.—*Q.* What reason have you for believing that landlords don't exercise sufficient caution in the selection of their tenants?—*A.* I think there is a want of practical experience in many cases; and I think agriculture would get into a far healthier state, if the law of hypothec were abolished. When a landlord gets a bad tenant, he seldom gets back his farm in a good condition.

To Mr Murray.—I have no doubt that landlords do make inquiries about the tenants whom they accept, but the highest offerers are generally not the best tenants, and they are often accepted. If a little more rent is offered by a man with little capital, he is often the one that is preferred; and even the man with the most capital may not be the best tenant, if he is not a practical man. The landlord's inquiries should have reference not only to his capital, but to his farming capabilities. The preferential per-centage which I would be inclined to give the landlord over other creditors, is five per cent.; and when the tenant got into arrear, and was proceeded against, I think the lease should be irritated.

To Mr Curror.—I have spent sometimes on my farm £850 a year for manure. In the first two or three years after my entry, I also spent £500 on draining. I look on these as securities which the landlord has, and which the tenant cannot take away. I did the draining entirely with my own money.

To Mr Fleming.—My average annual expenditure on manure is from £600 to £700. I pay cash for my guano, etc., but town manures we generally buy at six months' credit. Generally speaking, the manure used for crop 1864 is paid before Martinmas 1864. *Q.* Then, as you think the landlords would allow the terms for payment of rent to remain as they are now, the effect of your evidence is, that whereas the manure merchant would be paid his account for manure early in the season, the landlord would be postponed to him, and would be left without security for his rent, if the law of hypothec were abolished?—*A.* He has the whole stock and crop on the farm, and that has all been done with the tenant's own capital. Wherever a landlord gets a good tenant with sufficient capital to farm his land, I think he needs no other security. If the tenant breaks down, his whole means are in the hands of the landlord. *Q.* Suppose a tenant takes a farm, having a capital of £3000 at his disposal, and that, by a series of bad seasons, his capital is lost, and at the end of the ninth year of his lease he has no capital, do you think it a desirable situation for the landlord to find himself in, that he has no security except the personal obligation of his tenant to pay the rent?—*A.* Other creditors have no more security; but if a landlord saw a tenant sweeping away all his crops off the ground, it would be an intimation to him to look out.

The Chairman.—*Q.* What can he do, when his rent is not due?—*A.* He can sequestrate.

To Mr Murray.—The management of farms near Edinburgh requires a greater amount of manure than farms generally. I take two crops off some of my land.

To the Chairman.—I think agriculture would get into a healthier state if the law of hypothec were abolished, because it would be confined more to men with

sufficient capital. I think the hypothec should be abolished at once, without reserving the rights of parties under existing leases. William Gray.

(3.) Mr JOHN GIBSON.

John Gibson.

To the Chairman.—I am tenant of the farms of Woolmet, Todhills, Newhailes, and Dean and Blinkbonny, all in Mid-Lothian. These farms extend to about 750 imperial acres, and, on the average of the last seven years, I have paid a rent of £2634,—sometimes much higher. I have been engaged for twenty-nine years, on my own account, in the practice of agriculture—always in Mid-Lothian. My farms are all arable, but I have always had a proportion of them in pasture. They have all a Martinmas entry. The first term of payment of rent for two of the farms is at Martinmas, a year after entry; and for the other two at Candlemas, a year and three months after entry.

I have not personally experienced any inconvenience from the law of hypothec. But it is a disadvantage, inasmuch as it brings into competition, with those who wish to take land, parties of a different class. In my own case, I have been threatened with such competition, and I may have been induced to give a little more rent in consequence. I was told that other parties might be got to give a certain rent if I did not choose to give it, and I thought they were not so desirable tenants as might have been wished. I should not say that in my own case parties offered for the farms, trusting to the credit which the law of hypothec gives them, though I know plenty such cases in my own district and elsewhere. My strongest objection to the law of hypothec is, that it creates an unfair competition for farms. Besides that, it brings in a class of tenants who cannot do justice to the landlord or to the public. I decidedly think, and always have thought, that it is prejudicial to the progress of agriculture. I think Scotland, as an agricultural country, would have prospered more if there had been no law of hypothec—it certainly would have done so since the repeal of the Corn-laws. I think both landlords and respectable tenants would have derived benefit from its abolition. A very large proportion of the class of tenants, which many landlords have taken, could not continue in their farms; and in consequence of being short of means, they could not cultivate their farms in the same way that a tenant with plenty of capital would have done. That deteriorates the land; and the landlords would probably suffer when these tenants left the farms, because the next tenant would not offer anything like the rent which he would have done, if the former tenant had had sufficient capital to manage the farm properly. My opinion is, that the class of tenantry in many districts of Scotland has been deteriorating for the last thirty years. In the district with which I am familiar, they have changed very much for the worse in respect of capital. I would also say that there has been a very large proportion of tenants who never were bred to farming, many of whom have gone to the wall in my time. Many of these have been men of capital, but wanting experience and practice. I am not prepared to say whether the law of hypothec has had any effect in the way of admitting persons with ample means to farms as tenants, who were without sufficient skill. I am in favour of the entire abolition of the law; but I would reserve the rights of parties under existing leases. If the law were abolished, I think landlords would be justified in making new bargains with reference to the terms for payment of rent. They would then have to look more to themselves, and I have no doubt they would so adjust the payments that they would not be sufferers; but they would then be sure of getting tenants with sufficient capital. The class of men who ought to be tenants in this district would not object to the landlords asking a fore-rent, and, as they would be men of sufficient capital, they would have no difficulty in making arrangements to pay it. Banks at present will do nothing in the way of advancing money to tenants, because they know the landlord has a preference; but, if this law was abolished, I have no doubt they would assist them.

To Mr Cornegie.—I have had occasion more than once to apply to banks for assistance to different tenants, but I was always met with the reply, that the law of hypothec was a decided obstacle in the way. I think the abolition of the law would make no difference in regard to banks advancing money to landlords. They would continue to advance to them on good security. I cannot say whether the existing state of the law has tended to make manure merchants

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raise their prices. The opposition among these merchants is now so great, and they cut the matter so fine with reference to profits—or at least they tell their customers so—that I don't see how the law of hypothec can affect prices very much. I think the law tends to prevent a man's friends from coming forward to help him if he is in temporary difficulties. If the law were abolished, I think there is not the slightest doubt that his friends would come forward. Friends do come forward sometimes, and suffer in consequence. We had a striking instance of that very lately in East Lothian, where a large proprietor let one of his best farms to a person who had not sixpence of his own, and I believe it was entirely stocked by good-natured friends, all of whom suffered in the end. He was only a few years in it, and I believe it has been let lately very much out of order. I do not think that the system of fore-renting would be bad for the occupants of small farms, if they had sufficient capital for the land which they undertake.

To Mr M'Lagan.—There is no doubt that very great progress has been made in agriculture during the last ten years; but my opinion is, that in regard to capital, though not at all in regard to character, farmers have very much deteriorated within the last twenty years. A great change has taken place of late years in the expense of farm-management, with regard to feeding stuffs and artificial manures. There are few tenants in the district in good credit, who do not find their accounts for these amount annually to more than the rent paid for the land, and in many cases to much more. It is not every one who is in a position to follow up the great improvements which have taken place in agriculture, and a very large class of farmers have fallen in consequence. For the last two or three years, and particularly with reference to the crop of 1862, there has been a great trenching on capital; and I believe that there are very few tenants who will not agree with me in this, that almost all the rent of 1862 had to be paid from capital. If the law of hypothec had been abolished, and landlords had insisted upon fore-rents, I don't think that tenants would have been rouped out of their farms in consequence of that, because, if they could pay fore-rent, they would not be put into that awkward position in one year. If there was a series of bad years, and the tenant was unable to pay his rent, the landlord might roup him off, though it might not be his interest to do so, and he would still have the farm to let at its value. My opinion is, that the effect of the abolition of the law of hypothec would be to bring in a class of tenants with more capital, and tenants would have to take farms of a size suitable for their capital. I think that ought to be an advantage both to landlord and tenant. I am not aware of any instances where tenants of skill, but without sufficient capital, have been benefited by the law of hypothec. Only those who have sufficient capital for the farms they undertake ought to be received as tenants, for the good of the landlords, as well as of themselves and of the country. If they are not in a position to take advantage of all the improvements which are going on in agriculture, and to spend their money judiciously, I think the country and the landlord will suffer for it.

To Mr Curror.—In the case which I mentioned as having occurred lately in East Lothian, I think the landlord exercised his right of hypothec. The tenant left the farm in a very bad state, and the landlord got less rent for it. Only this morning I heard of the case of one of the tenants of another large proprietor in East Lothian, who was selected three years ago as the tenant of a farm, and who, in consequence of insufficient capital, has recently been sequestrated.

To Mr Murray.—In regard to my having been threatened with opposition in taking some of my farms, what occurred was—that I was told by the party having the management of the farm, that, if I would not give a certain rent, he would get some one to give it. No doubt the landlord has a right to get the best price he can for his land, but I think he should always look to the class of tenant that he selects, and that he should give a slight preference to one who has laid out a very large sum in improving the farm. In my case the party having the management wished a half grain and half money rent, and I offered a money rent equal to the average of previous years; but, when I saw the Crimean war coming on, I closed with his proposal, and it has been to my benefit that I did so. I have heard of many cases where the law of hypothec has been exercised in a way which was considered very hard for the tenant, who has been rouped out of his farm, though at the time he entered it he had sufficient capital to carry it on as farms used to be managed, but not sufficient to take advantage of

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the great improvements of recent years. These men would probably not have been in that position, if they had been selected in the way I think it likely the landlords would adopt, if the law of hypothec were abolished. I think the law should be abolished in every case in town and country. I once had the idea that the landlord might get a preference with reference to the implements used in the working of the farm, but, since the introduction of steam ploughs and other expensive implements, I think that would be giving him more than he is entitled to. I think the law should be done away with altogether; but, if that cannot be done because of the hypothec in towns, and it is necessary to carry certain parties along with you, then I would give the landlord a hypothec over the implements on the farm, but not including steam ploughs, and not over the crop. I am not conversant with the landlord's power of distress in England, but I have heard the tenants in England complain of it often enough, and I know that the rents in equally good localities in England are not above one half of what they are here. My main objection to the law of hypothec is, that it brings in men who have not sufficient capital to compete with those who have. The effect of that upon small tenants would be, that they must just take farms proportionate to their means. If they are men of very small means, they must just go to the towns; and my knowledge of practical agriculture is such, that I would say a very large proportion of the small farmers farm very far behind the age.

To the Chairman.—I think the urban hypothec is founded on the same principle as the country hypothec, and, if one is abolished, I think the other should also be abolished. For the middle or lower class of houses, the tenants are generally required to give security or pay fore-rent.

Tuesday, December 13, 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.	MR MURRAY.
THE SOLICITOR-GENERAL.	MR HOPE.
MR DUNDAS.	MR M'LAGAN.

(4.) MR ROBERT BINNIE.

Robert Binnie.

To the Chairman.—I am tenant of Seton Mains, in East Lothian. I farm about 320 imperial acres. My rent, on the average of the last twenty-two years, has been £2, 14s. or £2, 15s. per acre. My term of entry is Whitsunday and separation of crop, and my rent is payable at Candlemas, Whitsunday, and Lammas, after the crop is reaped. For Edinburgh and Leith manures I pay about £130 a year, and for guano and lighter manures about £460 a year. I am also bound to consume all the straw on the land. For feeding-cakes, etc., I pay £200 fully. I consider my term of entry very suitable, and the terms for payment of rent are very easy for me, because I get a long credit. The effect of fore-renting a farm like mine would be, that the tenant would require a great deal more capital. The landlords would get a better class of tenantry, but it might reduce the value of land in the meantime, though, I believe, that would remedy itself in course of time. I think fore-renting would raise the status of agriculture very much; it would bring in a better class of men. It would be a benefit to landlords, inasmuch as they would get their money sooner; but it might reduce, in the meantime, the value of land, by thinning the ground of men who seek to be tenants without sufficient capital; but I think it would greatly benefit the country ultimately. I don't think it would be fair to the landlords to abolish the law of hypothec without introducing the system of forehand rents. If the fore-renting system is carried out, I think the law ought to be abolished, but not otherwise. I am content with my position at present, and I cannot say that I have made up my mind which of the two I would prefer. I think it is a most difficult question,

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and requires great consideration. I think that hardship does arise to the mercantile classes from the present state of the law. The recent case in Ayrshire is an example; but I don't think there is any fear of the East Lothian landlords attempting to follow grain. There is a possibility that merchants may suffer from the law in such counties as East Lothian; but I cannot mention any case in which they have suffered. I certainly think that benefit results to the landlord from the law of hypothec, because it keeps him secure. I don't think that any benefit results to the tenants. If I am kept in the same position that I am in now with my landlord, I am perfectly satisfied to have the law abolished, and I am equally satisfied that it should remain.

To the Solicitor-General.—I think the fore-renting of farms would raise the status of agriculture, by introducing a better class of men, and bringing more capital to bear on land. That applies to Scotland generally, and it applies decidedly to East Lothian. As a rule, the tenants of East Lothian are of a very high order; but there are many exceptions. As a class, you could not get better men than most of them, even if the law of hypothec were abolished. It would not be fair to abolish the law without making provision for existing leases; and I think the provision which ought to be made for existing leases ought to be, that the tenants should pay forehand rents. I think the term of entry should be at Martinmas, and the first rent should be paid at Whitsunday following. I believe that the effect of landlords stipulating for forehand rents in new leases would be, that the rents would be lower. Landlords would consider whether it was more for their advantage to let their farms at a higher rent, or to let them on prepayment at a lower rent. They would consider the comparative advantages of a lower price with security, and a higher price without security. If they were of opinion that the present class of tenants who pay the higher rent were reasonably safe men, I don't think it likely that they would take the farms from them, and give them to others who would pay a less rent. The question would always be between higher and lower rents with greater or less risk, and that would leave landlords on a footing of equality with dealers in other commodities. *Q.* If the law of hypothec in its operation induces landlords to be less cautious in the choice of their tenants, and to let their farms to men whom they would not otherwise trust for their rents, does that appear to you to be an objection to it, or an argument in favour of it?—*A.* I think it is most objectionable. I think you cannot have too high a class of men,—men of capital, who may be trusted to pay what they undertake. If, without the hypothec, landlords would select the same class of men that they do now, as reasonably trustworthy for their rents, its abolition would have no effect in throwing any class of tenants out of their farms; and, if the present class of tenants are not men who may be reasonably trusted for their rents, they are not proper men to have the farms, and landlords should certainly not be induced to let to them on the security of their hypothec. Haddington market is a stock market. If a farm is near the railway station, the farmer brings a representative sack to the market, and the stock is delivered to the purchaser, at the nearest railway station to his farm. If the farm is not near a railway station, the corn is brought in bulk to the Haddington station, and a sack is planted in the market—the delivery to the seller being at the Haddington railway station. The Edinburgh and Dalkeith markets are conducted on the same principle as that at Haddington; but at Edinburgh the corn sent by railway lies at the railway station. The Dunbar and Kirkcaldy markets are conducted on the same principle.

To Mr Carnegie.—I have known very many cases where, on the bankruptcy of a tenant, the landlord got all his claims, and the public lost very largely indeed. A case of that sort happened the other day in my county. There is great risk in advancing money to farmers on account of the landlord's hypothec, and also for other reasons. Farming is not a flourishing trade at present, and it would be great hazard to advance money to farmers. If the law was abolished, I think they would have greater facilities for raising money. I should say the law as it stands at present is injurious to the credit of farmers as a body, because I think there is no doubt that their facilities for getting credit from bankers are less than if the law of hypothec were not in existence.

To Mr Hope.—My expenditure for manures per acre is a fair average of that of neighbouring farmers. I grow early potatoes, and take a second crop. The merchants who supply the farmers with guano and feeding stuff are very often their creditors. If land was fore-rented, it would be very much to their advantage.

Robert Binnie.

I could not have taken Seton Mains with my capital at that time if the fore-renting system had been carried out; I must have taken a smaller farm. There are sometimes disputes between outgoing and incoming tenants, but these are settled by arbiters. By a Whitsunday entry the outgoing and incoming tenants are brought much longer into contact than they would by a Martinmas entry.

To Mr M'Lagan.—If the present system had not been in operation when I took Seton Mains, I could not have taken it without going to my friends for a little more money. A good many tenants have been introduced into East Lothian from other parts of the country. I believe that almost all who have come there from Mid-Lothian have thriven. I think that generally speaking, under the existing system, farmers go to their farms with a sufficiency of capital, but no more; and, if the law of hypothec were abolished, they would require to have a year's rent more of capital. The law of hypothec has been a benefit to tenants who have not had sufficient capital; but the abolition of it would raise the status of agriculture, because it would introduce more money into land. If it were abolished, it would be necessary to protect the landlords by fore-renting the farms; and all the difference to the tenant, assuming that his capital was sufficient for the land, would be, that he would require to have a year's rent more in his pocket. The reason why I think that there would be a reduction of rents if they were paid before the crop was reaped is, that, more capital being required, there would be fewer men open to take land; the landlord would therefore, very likely, have to submit to a slight reduction of rent, but he would get better men, and I have no doubt it would rectify itself in time. I think the reduction would not be much more than the interest on the rent, which the landlord at present lies out of. I think landlords ought to be satisfied with fore-rents as a security if the law were abolished. If the same terms of entry and of payment were continued in East Lothian, and the law abolished, I think most of the landlords would insist on some collateral security.

To Mr Dundas.—It is too often the case that, when a tenant becomes bankrupt, his farm has got into a state of great disorder, and, though his rent may be paid in full, the landlord may still be a great loser. My opinion, however, is, that landlords are often to blame in accepting as tenants men whom they should not accept. I think it quite likely that, if the hypothec was abolished, stringent clauses would be introduced into leases, making them void on a very short term of non-payment of rent—although there are very stringent clauses at present which the landlord rarely takes advantage of.

To the Chairman.—I think the effect of the abolition of the law in such counties as Aberdeen, where there are small tenants, would be to abolish these men altogether. It would drive a great many out of the profession, but that would raise the status of agriculturists. There are cases in which I think it would be an advantage to tenants to be able to get advances from banks. For example, at Falkirk Tryst, Hallow Fair, etc., we sometimes have our bank account pretty bare, in consequence of the Martinmas rent, and we require to lay out £500 or £600 more than we have calculated upon; and, but for the hypothec, I think bankers would have no hesitation in allowing us to overdraw our accounts a few hundred pounds to meet purchases of cattle on such occasions. I believe that the law of hypothec prevents that to a large extent. I myself, and others in my position, might be allowed the privilege at present, but a great many others would not. Personally the law has not caused any inconvenience to me. I don't think the abolition of it would have any effect in preventing the present tenants in East Lothian from obtaining a renewal of their leases.

To Mr Hope.—I think the landlord would be very secure, if the fore-rent system were introduced on the abolition of the hypothec.

(5.) Mr JOHN FORMAN.

John Forman.

To the Chairman.—I am tenant of Duncrae Hill, parish of Humbie, East Lothian. It is entirely arable, with the exception of a field of pasture. Lord Hopetoun is my landlord. I farm about 900 imperial acres, and my rent is about 33s. per acre. My term of entry is Whitsunday and separation of crop. I pay the first rent at the Candlemas year following. I spend on guano and feeding stuffs about £900 a year, besides being under an obligation to consume the straw on the farm. I consider my term of entry is the most convenient for landlord

John Forman.

and tenant. I think the term of paying rent is the fairest in the meantime. If it were necessary to have a change on the term for payment of rent, in consequence of the abolition of the law of hypothec, I would rather have the system of fore-renting than keep up that law; though I don't see the necessity for the introduction of fore-rents even then, except to give the landlords more security. I think that fore-renting would be an amply sufficient security for them. I think it would be an advantage both to landlords and tenants to abolish the law, even if it had the result of introducing fore-rents. This would require men of larger capital as tenants, and in the long run it would be a benefit both to landlord and tenant. *Q.* Is there any class of men to whom its abolition would be a disadvantage?—*A.* There is a class of men who may be looked upon so far as adventurers, who take land without sufficient capital; they know the length of time they have to pay their rents, and the landlords, having the security of the law of hypothec, don't look so strictly into the character of the tenant as they would otherwise be compelled to do. I have not personally experienced any inconvenience from the law; but I have known cases where I am perfectly certain the landlord would not have taken the tenant but for the law of hypothec. These have turned out very unsuccessful speculations both for landlord and tenant. I have also known cases in which merchants who have trusted such tenants have suffered. These merchants must have known of the existence of the law of hypothec when they gave the tenants credit; but it is very difficult to refuse a man credit sometimes, when he is in a respectable farm, and everything is going on well apparently. A merchant cannot always know a tenant's private affairs.

To Mr Murray.—In using the word 'adventurers' I perhaps used too strong a word; but what I meant was, that it would be more difficult for a man with too little capital to take a farm, if the law of hypothec were abolished, because the landlord would require to look more closely to the amount of capital which he had. I think the smaller farmers may be as respectable as the larger farmers, and a large farmer may want capital as well as a small one. The effect of the hypothec is to give the farmer, large or small, the benefit of capital to the amount of a year's rent. The abolition of the law would have the effect of driving a number of them out of the field, but that would be an advantage to themselves and to the profession generally. It would also give the men of capital an advantage, in the way of taking large or small farms, according to their means. The change would be to the advantage of the men with capital, and to the disadvantage of men without capital. I think it would make landlords more careful in the selection of their tenants; though I do not mean to say that they do not at present inquire to a certain extent as to offerers for their farms. If the landlords thought they were injured by the abolition of the hypothec, I think the tenants would rather pay forehanded rents than keep up the law. As a tenant, I would rather be fore-rented than keep it up. I am not sure that the landlords would be obliged to make the rents forehanded; but that is more a landlord's question than a tenant's. I cannot at present suggest any other security which the landlords could have. In abolishing the hypothec, I think present leases should not be affected: the law should come into operation with new leases.

To Mr Carnegie.—I think the abolition of the law would make it much more difficult for men of small capital to take land. Landlords would look much more sharply into the amount of capital they possessed, and that would make it much more difficult for them to get land. I don't think it would tend to abolish small farms; it would merely bring a better class of men into them. Small farmers may have plenty of capital for a small farm. It would only inconvenience the small farmer of limited means. Whether an industrious man in the position of a grieve, who had saved a little money, would be able to take a farm, would depend altogether on the amount of money he had saved, and the size of the farm he wanted to take. At present such a man has greater facilities for getting on with limited capital. I don't see that the alteration of the law would make much difference with regard to his friends assisting him, if they saw that his capital was sufficient to take the farm.

To Mr Hope.—Both large and small farmers occasionally want capital. A farmer recently failed in my district, whose liabilities are understood to be about £11,000. I think that landlords in letting their farms, whether at a back-rent or a fore-rent, would consider their character as well as the amount of capital

John Forman.

they had. In my neighbourhood, when a tenant enters to a farm at Whitsunday, he enters to the houses, the grass, and the fallow. He does not pay for the grass, but he does for the fallow,—at least I do. The incoming tenant has to pay the outgoing tenant for the fallow break,—no for the working, but for the land itself. The practice in that respect, however, is very various.

To Mr M'Lagan.—I think all the additional capital which the tenant would require, if the rents were forehanded, would be his year's rent. *Q.* Is it your opinion that the tenants of Scotland at present possess sufficient capital for the working of their farms?—*A.* I should think in some cases they are pinched enough,—I think it is barely sufficient. Supposing the farms to be fore-rented, the pinching would be harder to that extent. I do not admit that the tenants would be compelled to take smaller farms, and that they would descend in status, because I think in one sense the change would raise the class of tenants: it would lessen the competition for land; it would keep out a class of men with inadequate capital; and, therefore, these would not compete against the *bonâ fide* tenant with sufficient capital. *Q.* Suppose that a tenant has just sufficient capital at present to manage a farm of 200 acres, and that his lease being out the landlord insists upon a fore-rent, would that tenant be in a position to take his farm again?—*A.* He would make a new bargain, and if there was less competition for the land, and if he had been paying too much before, he might get it on easier terms. *Q.* You are aware that, after you get to a certain size of farm, the tenant is not required to put his hand to any labour on the farm, and that his business is principally to superintend; if the law of hypothec were repealed, and those tenants who had not sufficient capital, or barely sufficient capital to manage a large farm, were compelled to take a smaller farm, though they had not been accustomed to work, they would be obliged to put themselves in the position of ordinary labourers on a small farm?—*A.* On the supposition that things were to remain as they were, it would be so; but, as I have said before, I think there would be a weeding out of tenants. *Q.* Would not tenants who at present, from the size of their farms, are not compelled themselves to work, be obliged, if the law of hypothec were abolished, and a system of fore-renting introduced, to take smaller farms and to work themselves?—*A.* It looks like it in that case. *Q.* Hence the effect of the repeal of the law would be to reduce in status that class of tenants?—*A.* Yes; men who are struggling perhaps could not afford to fore-rent, if things remained as they were. *Q.* Those men who had larger farms, and who, owing to the repeal of the law of hypothec, were obliged to take small farms, would put out of the market the tenants who held those smaller farms?—*A.* I won't admit that they would be put out by the repeal of the law of hypothec; I would only say that the class of men who could not pay the fore-rents would be reduced, but that is a class of men that should be put out. *Q.* Are you not aware of instances where small farmers with limited capital have been assisted by their landlords, and have thriven in their farms, and taken larger farms, and whose sons are now wealthy and intelligent farmers?—*A.* I have known such cases. *Q.* You would not think it an advantage to the country to dispossess such men of their farms?—*A.* Certainly not.

To Mr Dundas.—I think I could name half a dozen of cases within a very limited space round about my part of the country, where men have taken farms with what we in the neighbourhood thought inadequate capital, and there has been a struggle ever since, and two out of the half dozen have fairly broken down. I do not think that the law of hypothec is any bar to respectable farmers obtaining credit.

To the Chairman.—I think the abolition of the law, by diminishing the competition for farms, would have the tendency, to a certain extent, to reduce rents. I am decidedly of opinion that within the last four years rents have risen far too much. My own farm was taken about three years ago, and I have suffered amongst the rest; but the farms on Lord Hopetoun's estate are valued, and we are not exposed to the competition of the public; that makes a difference to a considerable extent. I think the abolition of the law would have an effect to a certain extent on rents of farms managed upon that system, but not so much as upon those brought into the market. If farms in the market were rated lower, of course valuators would take that into account in making their valuation. The £11,000, for which I stated a tenant in my neighbourhood had recently failed, included the rent, which, with servants' wages, etc., amounted to about £2000.

John Forman.

To Mr Hope.—When a tenant fails, his landlord is generally secured by the law of hypothec, and that diminishes the dividend to the other creditors. *Q.* Where tenants with small capital have risen by taking larger farms than their means warranted, was the risk of their failure not thrown upon the public?—*A.* The risk would have fallen upon manure merchants, country wrights and smiths, and others who trusted them. If a farmer has held a farm for 19 years, and has nothing at the end of the lease beyond the stocking upon it, I should say that he was not following a trade which was beneficial to himself.

To Mr Murray.—Of course he may have lived expensively, or have brought up an expensive family.

To Mr Dundas.—If the landlord has got his rent under a system of fore-renting, in the event of a farmer failing, the public would apparently be sufferers just as much as under the present law of hypothec. I do not altogether connect the rise of rents in the last four years with the law of hypothec, but I have not fully considered this question.

(6.) Mr WILLIAM SADLER.

William Sadler.

To the Chairman.—I am tenant of Ferrygate, Drem. The extent of my farm is 460 imperial acres, of which 400 are arable. My rent varies from £1300 to £1600. The term of entry to the fallow is March, to the grass and houses at Whitsunday, and to the remainder at the separation of the crop. The first rent is payable two years after entry. Entering to the fallow in March 1864, I commence paying rent in March 1866. I should prefer a Martinmas entry to the whole farm, and to pay rent quarterly, commencing three months after entering. I should prefer that, because I would be enabled to take land on better terms. That rule would be very inconvenient at present, because tenants have been losing a great deal of money within the last three years. On an average, I expend annually from £600 to £700 on imported manures, besides having to consume the whole straw on the farm. I also expend on feeding stuffs £200 or £300 a year. I think the quarterly payment of rents would be decidedly beneficial to landlords and tenants. *Q.* What effect would it have on the tenants?—*A.* Those who have not sufficient capital to take land would not attempt to do it, as they are induced at present to do by the long-credit system of the backhanded rents. I think, if the law of hypothec were abolished, it would have an effect in introducing a system of paying rents quarterly. For that reason I advocate the abolition of the law. I also object to the law, because I think tenant-farmers are put in a degrading position by the system of following grain, after a sale to a *bonâ fide* purchaser is made. *Q.* Have you known instances of that being done?—*A.* Numerous instances. I have heard of them, but not in my own neighbourhood. I am not prepared to state the particulars of them. I think farmers could purchase manures, etc., on better terms, if there was no law of hypothec. If the law were abolished, I think landlords would protect themselves by asking to have their rents paid up, just as if I were taking a house in town. I am aware that landlords have a hypothec over their tenants' furniture in houses in town. I think such a system of fore-renting, either partially or wholly, would be beneficial both to landlord and tenant. The landlord would be sure to have a man of capital as his tenant, and he would get his rent more certainly. The tenant would have fewer competitors in taking a farm, and he would thus get it at a lower rent. I think that the landlord would be compensated for the diminished rent, by getting a higher class of tenants. I think the effect would be to drive out of the profession of agriculture some farmers of insufficient capital, who now exercise that profession. That would be a benefit to agriculture. It would put agriculture on a sounder footing. I know a little of sheep farming in Perthshire, and in the cases I know there, rent is paid twice a year, the first payment being at Martinmas, six months after entry. I think the law of hypothec is also a disadvantage to seed and manure merchants, and others who deal with farmers; it gives them less security for the payment of their debts, in respect that the landlord has a preference. I am not prepared to state cases where loss has been sustained by these parties, but I have read of them, and I believe that such is the fact.

To Mr Murray.—I sell my grain at Haddington and Edinburgh markets.

William Sadler.

Both are bulk markets, but I never have bulk in the market. I understand that, if the grain is sold in the bulk in the market, it cannot be followed. *Q.* Assuming it to be the law that, if you sell in bulk in the market, the grain cannot be followed, what is there degrading in your selling in that way?—*A.* It would be very expensive for me to bring the stock of my corn to Edinburgh. The last sale of barley I made went to Wakefield, and I only brought a bag to Edinburgh as a sample. Haddington is nine miles from my farm, and I should never think of carting my stock of grain there; it would only have to go back again. I think it is a humiliating position to be obliged to cart all the grain off one's farm, and sell it in bulk, and that you cannot take a sample of it and sell like other traders. I think the result of the abolition of the law of hypothec would be to make fore-rents. That would be a disadvantage to many tenants who had not sufficient capital. If they had not capital, they would require to thresh out their grain and sell it, to meet the Martinmas rent; and plenty of them do that already. If they had shorter credit, they would go out of farming altogether. I rather think the result would be to throw a great many men of small capital out of farming. It would bring more capital into the field, which would be an advantage, because at present farms are very often given to the men who offer the highest rents, whether they have capital or not. I don't say that inquiry is not made about them, but there may be others offering who have a great deal more capital, but who will not give the same rent. I think that any change which may be made in the law should not affect present leases.

To Mr Carnegie.—The abolition of the law would only be injurious to men of inadequate capital; it would not be injurious to a small farmer who had sufficient capital for a small farm. I should think the present law is prejudicial to tenants obtaining credit. I have always thought that the persons with whom they deal must put on the price something to cover the risk.

To Mr Hope.—I entered to my farm in August, and purchased the crop; but I was assumed by the lease to have entered at Whitsunday, and the proprietor paid me back £2 an acre for all the grass land. I got the fallow without paying anything, and I leave it in the same way. When tenants of sheep farms enter at Whitsunday, they pay for the stock in full, and they sell part of it very soon after entering. If they were taking the farm at Martinmas, they would have less to pay for the stock. I think it would be much more satisfactory that farms should be fore-rented.

To Mr M'Lagan.—If the hypothec were abolished, I think that we would get everything that we buy cheaper, because those we deal with know that they run a risk. The manure merchants are quite aware of the existence of the law of hypothec; and I am aware that there is keen competition among them, but I think they could sell cheaper than they are doing at present.

To Mr Dundas.—If the hypothec were abolished, a tenant's other creditors would get a better dividend in the event of a sequestration. *Q.* Take the case of a tenant with £2000 of capital, and suppose the landlord has a claim of £600 at present in the shape of hypothec over his stock and goods; if the law were altered, and that £600 had been paid to the landlord as fore-rent, would not the balance for division among the creditors remain the same?—*A.* I don't see that.

To Mr Hope.—*Q.* If the farm was fore-rented and the tenant failed, would not the crop and stock be there to divide among the creditors?—*A.* Certainly. *Q.* And if the farm was not fore-rented, but the landlord used his hypothec, would he not take the crop and stock to pay his own claim, leaving little for the other creditors?—*A.* Yes.

To Mr Murray.—*Q.* But would not the stock and crop on the farm be so much less by the amount of the fore-rent paid to the landlord?—*A.* That must be so.

To the Chairman.—*Q.* Do you think, looking back for a series of years, that the agriculture of Scotland has generally suffered from the class of men who have taken farms?—*A.* Yes, I think so.

(7.) Mr GEORGE DAVIDSON.

George Davidson.

To the Chairman.—I am tenant of Dean Park, Balerno, and other lands in Mid-Lothian. I have been a farmer for thirty years. I farm about 350

George Davidson.

imperial acres, and pay about £650 of rent. My term of entry to Dean Park was Martinmas, and the first rent was payable at Candlemas in the second year. I think that is the natural period of entry. The term for paying rent gives a long credit, and is so far an advantage to the tenant, but it has many disadvantages. The first of these is, that it has raised the rent of land above its real value. It has also this disadvantage, that it often blinds a tenant who is getting into difficulties with reference to his real position. If he paid his rent at any earlier date, he would know better how he stood. It also deceives the mercantile community, with whom he deals, as to his real position. A system of fore-renting would take more capital, but it would be for the general good of the tenantry. I have never personally experienced any direct disadvantage from the existence of the law of hypothec. I have experienced this disadvantage indirectly, that, in common with others, I believe I am paying for my land more than I would otherwise have done. The long credit, with the security that the landlords get by the law of hypothec, has had the effect of raising the value of land much higher than it should be. I have no doubt that the abolition of the law would lead to a system of fore-rents, or at least to much earlier payments than we have at present. I think landlords would find it necessary to resort to that for their own security. That would be an advantage to landlord and tenant. It would keep the tenants in a sounder position than they are, and, though less rent might be promised, I have no doubt that in the long run the landlord would profit as much ; more capital would be invested in the cultivation of the land, and he would have a superior class of tenants. I think it would diminish the competition for farms, which is too great just now, because men without sufficient capital are tempted to go into the profession. I think the rent should be paid at the end of the year at least, or probably half at the end of the first six months, and half at the end of the second six months. That should be so even in the case of a Martinmas entry. I believe that would be the practice, if the law of hypothec were abolished ; and I think it would be beneficial in this way, that the competition for land would be much less, and we would have cheaper farms. I think the mercantile community also suffer from the present law. I have heard of many cases in which considerable loss has been sustained by them. I have known cases frequently where the general creditors of a farmer have come off with a very small dividend, and the landlord got full payment. I think that is a hardship. The general community may be aware of the existence of the law of hypothec, but they are not necessarily aware that a tenant is in arrear of rent. According to the law of hypothec, the landlord has full security for two years' rent, because, supposing a tenant failed to pay the last half-year's rent for crop 1863, when it became due at Lammas 1864, the landlord would not only have right of hypothec over the crop of 1864 for that year's rent, but could hypothecate the stock and implements for the rent of 1863 ; and, in case of bankruptcy, this would likely absorb nearly the whole effects on the farm, leaving a mere trifle to the other creditors.

To Mr Dundas.—I think that, with present prices and prospects, the rent of land is at least 30 per cent. too high. I have little doubt that the abolition of the law of hypothec and a shorter credit for the rent would bring it down something like that. Of course tenants are now getting the benefit of about a year's interest of the rental of their farms, and they would not benefit unless the rents were reduced beyond the amount of that interest.

To Mr Hope.—My opinion as to the over-renting applies generally to arable land over the whole of Mid-Lothian.

To Mr Murray.—The landlords are entitled to take what rent they can get ; and I think the fault is the fault of the farmers in offering too high rents ; but this is caused to a great extent by the present system, because they are stimulated by the prospect of realizing the proceeds of the land before they require to pay anything. They know they are risking not capital which they have in their pockets, but a prospective capital which they hope to make off the farm ; and they may be disappointed in crops and in prices, and generally they are. I don't blame the landlords. The result of the present law is to give the tenant the benefit of an amount of capital equal to a year's rent. That is an advantage to the tenant, inasmuch as every man is the better of having money in his hands, but I think it is more than counterbalanced by the extra rent which the system has induced over the country. I believe if you required all tenants to pay down their rents forehanded just now,

George Davidson.

many of them could not do so; but I don't think the alteration of the law should be applied till the expiry of present leases, and, if a man has a farm worth the money at all, he should be able to advance the first year's rent under a new lease. I don't think an industrious grieve has any more right to get the use of money in the way he does by the present system, than a tenant in a higher position. Under the new system he would just require to remain a grieve till he got more money. The general result would be the same to all farmers, whether large or small, because a man would require more capital in proportion to the extent of his farm, whether large or small. The result would not be more adverse to small tenants than to others. It might prevent them from taking farms till they had a little more money; and it would prevent many men from taking land, who do so just now without the requisite capital in their pockets, but looking to the prospect of gain from a crop which has to be sown, grown, reaped, and sold, and which very often turns out to be very different in the result from what they anticipate.

To the Chairman.—I have no doubt a tenant could borrow money more readily without the law of hypothec than with it. I think it would be better for him to gather sufficient money before he takes land, than to be indebted to any one. It is a very dangerous system for any man to take land and farm it on another man's capital, as is often done at present. The abolition of the law of hypothec would, I believe, enable a tenant to borrow more readily from banks, and that might be attended with benefit if the man had a good opportunity, and was possessed of judgment and energy to conduct his business well. I don't think there is much difference between getting the money from a bank and getting it on credit from a landlord, except that in the latter case he only gets credit in rent.

To Mr Carnegie.—There might no doubt be a case where a temporary accommodation might prevent a tenant from throwing his stock or crop into the market at an unfavourable time; and he would get such temporary assistance more readily, if the law of hypothec were abolished.

To the Chairman.—I don't think there is any disadvantage to the tenant merely getting money as a sort of loan from the landlord; but it has many concomitant disadvantages—such as extravagant rent, heedless expenditure sometimes, and besides I think it is unfair to the mercantile community.

To Mr M'Lagan.—I think the difference on the rent by this system is more than the interest of the money which the tenant would have to borrow to pay his rent before he reaped the crop. I think the additional capital, which a tenant would require if the hypothec were abolished, would just be one year's rent: he would have no more capital at his command for improving the farm, except by borrowing.

To Mr Hope.—If a tenant borrowed money from a bank and then failed, the bank would rank with the other creditors if it had no better security. If he gets a loan from his landlord in the shape of credit for his rent, the landlord is secure, to the exclusion of the other creditors.

To Mr Dundas.—I suppose the bank would not lend except on collateral security, and then the loss would fall on these collateral securities, who become the tenant's creditors.

To the Chairman.—I think a guano merchant would have as good a right to ask an assignation over the crop to be grown with his guano, as a bank would have to ask an assignation over the crop to be raised with their money. If the collateral securities with the borrower to the bank only get a dividend from the tenant's effects along with the other creditors, that places them or the bank, as lenders, in a very different position from the landlord under the law of hypothec.

To Mr Murray.—I think that, if the law were abolished, the tenant's credit in the mercantile world would be much better than it is now. One effect of the law is to cause the tenant, whether he pays cash for his guano or buys it on credit, to pay a larger sum than he would otherwise do, because merchants often meet with heavy losses when tenants fail, and they must have a corresponding profit to enable them to go on with their trade. That acts prejudicially against the tenantry as a class. Of course it is true in regard to all trades, that the good payer suffers for the bad; but there is no class of creditors who are paid in full almost in every case, as the landlords are under the law of hypothec. All preferential creditors are so paid; and it is quite right that the landlord should be paid his rent, but he should get it earlier than he does at present. If a tenant

George Davidson.

borrows, giving a preference, I suppose it is the same to the public whether the preference is given to the landlord or the party lending the money.

To the Chairman.—It would be an extremely inconvenient thing to the farmers to send all their grain in bulk to market. There is a great deal of grain sent in bulk to Edinburgh market by carts to the Grassmarket. In the district where I reside, I can get more money for my oats and barley from the millers in the neighbourhood, than by sending it to Edinburgh. I have read of cases in East Lothian and elsewhere, where grain was followed after having been sold to a *bonâ fide* purchaser. I think that, even if that part only of the law which allows grain to be followed were altered, there would be a change in the term of paying rents.

Wednesday, December 14, 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.	MR FLEMING.
MR DUNDAS.	MR HOPE.
MR MURRAY.	MR M'LAGAN.

(8.) MR JAMES MELVIN.

James Melvin.

The Chairman.—I am tenant of the farm of Bonnington, near Ratho, in Mid-Lothian, and some other land. The extent is about 1000 imperial acres, and the rent about £2000 a year. I have been all my life in the practice of agriculture. I began in 1836. One of my farms is a grass farm, to work on with the cropping farm. Martinmas is my stated term of entry, but on the cropping farm, where I reside, there is a quantity of land which I entered to as summer fallow, *i.e.*, I entered to it almost a year previous to the Martinmas of entry. I paid for that to the landlord, and the landlord or incoming tenant is bound to pay me when I go out. My general term of entry may be said to be Martinmas, and my general term of payment for my arable land Candlemas and Lammas, after reaping the crop. The entry to my grass farm is Martinmas; the first rent being payable at Martinmas following, and the next at Whitsunday. These would be convenient enough terms, but the law of hypothec puts us to a certain extent in a wrong position. I think there should be no such law, and that it should be matter of arrangement between landlord and tenant. If it were abolished, I think the system of fore-rents would be generally adopted. I think its abolition would eventually be advantageous to the landlord; and I think it would be decidedly advantageous to the tenant. The tenant would certainly be in a better position paying forehand rent, with no law of hypothec existing, than he is now. I think there is a tendency at present to overrate the value of land, *i.e.*, to offer more money for land than it is actually worth, on account of the postponed terms of payment. To a large extent tenants farm for the first year on credit received from their landlord, and the result is that a considerable change of tenants is going on. Men of education and skill and capital rather draw off from competing with men who are to a certain extent speculators. *Q.* Do you think the class of tenants in Mid-Lothian has deteriorated of late years?—*A.* On all the estates where advantage is taken of the law of hypothec to raise the rents to an unusual height, that is the case; but on a great many estates the landlords find it not to their interest to raise their rents to the extent that competition would force them up to, and on all these estates tenants are maintaining their position. I should say the majority of landlords in Mid-Lothian do not unduly raise their rents. I think it would be an advantage to have forehand rents, because men of capital, skill, and education would then engage in the profession. It would be an advantage that farming should be confined to men of capital. By the present system rents are unduly forced up; and I should say that one-third more is got for land

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in the Lothians than for similar land in England, though no doubt the superior skill and intelligence of Scotch farmers may be an element. Even under the law of hypothec in Scotland there is a difference of 20 per cent. between farms let privately at a fair value and farms let publicly. On the farm on which I reside, consisting of 670 imperial acres, I lay out £1000 on purchased manures, and I buy £450 worth of linseed cake for feeding. I cannot complain of the operation of the law of hypothec so far as I am personally concerned, though I have lost a little money occasionally by neighbours who have become bankrupt, to whom I have sold seed-corn. I concur in the opinion, that one effect of the law of hypothec is to increase to a considerable extent the prices charged by dealers for manures. I think the abolition of the law would have the effect of permanently reducing rents, by preventing people from getting farms who ought not to be farmers.

To Mr Murray.—I should say that if the law were abolished, it is likely landlords would make the rents forehanded in order to protect themselves; but I don't think that would lessen the tenant's capital. Though he paid his rent sooner, he would pay less, and he would get credit more easily from banks and otherwise, and he would be in a better position generally. The forehand system might reduce the tenant's farming capital, and, if it is not sufficient for a large farm, he would be in a better position if he took a smaller farm. I know a few of the smaller class of tenants, but I cannot speak of that class in Perth, Aberdeen, Forfar, and the northern counties; my experience is confined to the Lothians. I am aware that in England the tenant pays rates and tithes; but, notwithstanding that, I think the value of land there is one-third cheaper. I know that the law of distress in England is in some respects similar to the law of hypothec here.

To the Chairman.—I think it is a degradation to a man not to be at liberty to sell grain in any way he chooses to the best advantage. I have known cases in my own district where individuals were obliged to send everything they sold to the stock market, because they were behind with their rents, and people did not choose to buy from them except in public markets. I have known two cases of stock being followed after having been sold to a *bonâ fide* purchaser.

To Mr Carnegie.—Under the present system, a tenant farms to a certain extent on borrowed money. That is far from a desirable thing. Every person dealing with a tenant knows, or ought to know, that he owes his landlord at least a year's rent, and that in any dealings with him at least one year's rent has to be taken from the stock on the farm before he can be paid. If the law of hypothec were abolished, and rents were forehanded, he would know that the stock on the farm was available for the payment of his debt, and the debt of other creditors. In a mercantile sequestration the fact of sequestration appears in the Gazette, but that very rarely appears in the case of a farmer being sequestrated for rent. I think that should be published. I recollect 21 cases in my own neighbourhood since 1836 of bankruptcy, or of parties being unsuccessful who occupied farms. In cases of bankruptcy the landlord's claim is generally more than the amount of one year's rent.

To Mr Dundas.—I think there would be fewer bankruptcies under a system of fore-rents, because landlords would be more careful in regard to the tenants whom they selected. Of the 21 cases which I have mentioned, ten were men who had been unconnected with farming before, and had little skill and not enough of capital; seven were farmers from a distance, unacquainted with the district; and four had been bred in the district. Under a fore-rented system, there would be more money to divide among the creditors when a bankruptcy occurred, because there would be less arrear to pay the landlord.

To Mr Hope.—When a tenant becomes bankrupt, the fund for division among his creditors consists mainly of the stock and crop on the farm; and, if these are freed from a year's rent, there would be so much more to divide.

To Mr Fleming.—Under the new system, the tenant would be brought sooner to a standstill than he is at present. Under the present system, the temptation is to go on till the whole funds are exhausted. Under the new system, the tenant would be brought sooner to a stop, and there would be more money left to divide. Of course, he would not become bankrupt sooner than he was compelled, but at present they go on too long. With fore-rents, the landlord would have to rank for a smaller amount of rent than at present, and that would be a benefit.

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To Mr Carnegie.—Under the present law, a tenant has the appearance of having more wealth than he has in reality. He often runs in debt to a larger amount on his stock and crop than he could do if the law were abolished.

To Mr Fleming.—As a rule, a farmer should always have sufficient capital to carry on without borrowing; but in certain circumstances it is desirable that he should have the opportunity of getting credit—for example, if he were setting up a son in a farm, or in a year of very low prices. I think a public notification of sequestration would do good by putting creditors on their guard. I think the worst feature of the present law is that part of it which allows the landlord to follow grain, because it is degrading to the tenantry generally. If the law were abolished, I do not see why the system of long leases should not be continued; but it should be provided that, if a tenant allowed a year's rent to fall into arrear, the lease should come to an end. I admit that there would be some unfairness to the landlord there, he having no security; and I am not prepared to say how that should be met.

To Mr Carnegie.—He could sequestrate the tenant whenever the rent became due; and I don't think a landlord is entitled to save himself from the effects of choosing a bad tenant.

To Mr Fleming.—*Q.* Do you think there ought to be a distinction drawn between the landlord who commits himself to a tenant for 19 years, and the manure merchant who sells his manure payable in six months, and who may not enter into a new transaction with the tenant?—*A.* I have not much sympathy with the manure merchants' outcry. I think, if there is to be a preference at all, it ought to be given to the landlord, though I would prefer that there should be no preference to any party. I think the change in the law is chiefly desirable as improving the status and position of the tenantry, and I think that would be followed by a more wholesome and healthy trade being carried on with them by merchants; and ultimately it would benefit the landlord, by giving him for tenants men of more independence and possessed of more capital. I think the change would be chiefly advantageous to the monied tenantry; but I don't think it would compel landlords in all cases to prefer the monied tenants. I know a good many instances in which landlords have assisted tenants of small capital to take land. My experience is, that at present some landlords look to capital and skill combined; but others look to the highest rents that are offered, with little reference to skill, and not much reference to capital. *Q.* Have you ever known a case where the landlord deliberately preferred the highest offerer, simply because he was the highest, and without reference to capital or skill?—*A.* I do. I have known a case where a man who was actually a beggar was preferred to a farmer; but that was not known to the landlord, otherwise he would not have taken him. I don't know any case in which the highest offerer was preferred, in the full knowledge that he had no capital; but it is a very easy matter for the landlord to ascertain whether an offerer has capital. I don't think a change in the law would affect the smaller tenantry to such an extent as it would do the middle-class tenantry. I am not aware that small tenants have less capital, in proportion to their holdings, than larger tenants. I know several instances in Mid-Lothian of farm-servants who have become farmers, and are as well to do as larger tenants.

To Mr Hope.—The system of fore-renting would bring a good many other people into competition with farmers.

To the Chairman.—The people to whom I refer are persons possessed of money, and who are tired of town life, and wish to retire to the country.

To Mr Hope.—Landlords would consider whether it was better to take a less rent at once, or obtain a large rent by postponing the term of payment. The system of letting farms by public advertisement tends to create a feeling of dissatisfaction, and actually to raise the other rents in the district, even on well-managed estates. I know a case where two farms were both held by the same individual. The superior one was valued before a certain farm in the neighbourhood was let; and after that farm was let, the other, though it was inferior, was valued by the same valuer very considerably higher than the superior one. On those farms where tenants have been continued, there are fewer changes of labourers than on those which are frequently in the market.

To the Chairman.—I think any change in the law should not affect existing leases. I have not much sympathy with manure merchants, because they generally put on such a price on those who can pay, that it carries them through.

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As a rule, they do not suffer any great hardship from the existing law, though there is undoubtedly a certain amount of hardship. I don't see any objection to letting farms to men from another district, if they are men of skill, capital, and enterprise; but a man who has been in the profession before is a better tenant, than a man who takes up farming for the first time. The change of the law, by bringing in persons tired of a town life as offerers for farms, would have the effect of making men of skill and capital offer the full value of the land, and the landlords would have a selection of men. It would be more prejudicial to the individuals themselves, if they had not skill, than it would be to agriculture generally. Mr Mechi came from another trade, and he has done a good deal as a farmer. I don't think that the small tenants in Mid-Lothian, who have risen from small beginnings, have got on to any great extent by the present system of giving long credit for the payment of their rents. If they had had to pay fore-rents, they would have required to take smaller farms. A tenant should always make a considerable outlay on his farm the first year of his lease; but I think he should be able to pay a fore-rent, or content himself with less land. The landlord often gives assistance in draining, but that is a permanent improvement, and I think he would give it although the present law were abolished. The interest is generally charged on such improvements, and paid forehand.

To Mr Murray.—The objections which I have stated to the present law apply chiefly to arable farms.

To Mr M'Lagan.—It would say very little for a farm and its tenant, if he was not able to pay a fore-rent at the end of the lease. If he could not do so, I would recommend him to make the best bargain he could with his landlord. I think the tendency of the law of hypothec has been to reduce the amount of the tenants' capital beyond what it ought to be. I don't think the tenants' capital is more than sufficient for the management of the farms they hold throughout Scotland. Tenants would just require to take smaller farms, if they could not pay fore-rents. I don't think that would increase the competition for smaller farms, because a number of people who offer at present, and who should not get farms, would be rejected entirely, and the numbers would be reduced in that way. I think there has been a deterioration in the tenants on certain estates in the Lothians for some years back. That deterioration has taken place whenever there has been a change in the management of the estates. It is indirectly the effect of the law of hypothec, because that law enables tenants to be taken who would not otherwise be chosen. The deterioration has been going on over certain districts; but ameliorations have also been going on. I could give instances of both. I think the deteriorations are owing to the law of hypothec, because but for it they would not have taken place.

To Mr Hope.—On certain estates good management has produced good results independent of the law; but, in cases where tenants have been chosen carelessly, there has been a deterioration, which would not have taken place but for the law of hypothec which secured the landlords.

To Mr M'Lagan.—Some landlords do not exercise a wise discretion in the choice of tenants. I think sufficient inquiry is not made into their means. If the law were abolished, I think tenants would be able to borrow money more easily than they do at present. They would pay the interest of the day, and it would only be on special occasions that they would require to borrow; whereas at present they have the landlord's money in their hands, and pay very large interest in the shape of rent,—very much more than they would have to pay for a loan. I think there would be about the same competition for farms under a change of law as at present; but I would expect a reduction of rent, because at present it is men of capital competing against men of straw. Under a new system it would be men of capital against men of capital, and the landlords would prefer men of skill and education and capital to men of capital only. I know many cases where men of skill and capital have offered for land, and have never been able to get it, while men of straw have got it; but men of capital are preferred at the same rent to men of straw at the present time. My opinion that it would be better to select tenants from the same district is founded on the fact, that, where there are few changes of tenantry, I find that generally they are the most respectable class. There has been a general progress of tenants eastwards, but that has not been beneficial in our district. The men who have come from the west have not been always the successful men.

To Mr Fleming.—I think there is an inducement held out under the present

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law to choose tenants who are not good tenants, but who promise large rents. It is not easy knowing who may be bad tenants, till they are tried; but I have known instances of men being chosen, who were known by practical men not to be good tenants. Perhaps no inquiry was made by the landlord in these cases; but what I mean is, that under the present law it is not so essential that stringent inquiry should be made.

To Mr Murray.—I think it is easy for a landlord to find out the pecuniary means of an offerer for a farm. If I were told by those who have acted for landlords that it is a very difficult thing, it would not alter my opinion.

(9.) Mr ALEXANDER HENDERSON.

Alexander Henderson.

To the Chairman.—I am tenant of Longniddry, East Lothian. I farm about 750 imperial acres. My rent is about £1700 or £1800 a year. I have been about 40 years a farmer. I have also acted as adviser in regard to the Luffness and Rankeillor estates. I have been much employed in arbitrations and valuations, and in giving advice as to the letting of farms. My term of entry is Whitsunday, and the separation of the crop; and my rent is payable at Candlemas and Lammas after reaping. That system suits very well in East Lothian. If the law of hypothec were abolished, I think the rents must be made payable sooner. The tenant would just require to have additional capital in his pocket in the shape of a year's rent. I think that would improve the status of the farmers, and it would have a tendency to limit the farming class to men of more capital. It would have the effect, in my opinion, of reducing the rents; but I think they are unnaturally high at present. It is the fault of the bidders that they are so. I know no reason for their offering too high rents, except that, when a landlord advertises, he gets as offerers people from other professions than the agricultural interest. Mercantile men, who have made a little money, come in and overbid the practical men in the country, and they are generally preferred. A good many of these men have come into East Lothian, and into various districts of the country, and there have been a good many farms let lately to others than practical men. Some of these have capital, and some have not. *Q.* What inducement has a landlord to take a man who is not a practical man, and not a man of capital?—*A.* It depends a good deal on the factor. If he is anxious to get a high rent for the land, he is perhaps not so particular as he ought to be in inquiring into the finances of the offerer. I think the law of hypothec has a tendency to increase his carelessness in that respect. I have no other objection to the law of hypothec, except that it unnaturally increases the competition for farms, and that the merchant has not such a fair opportunity of getting payment for his goods as he would otherwise have. I don't think the manure merchant protects himself from loss by charging those who pay ready money a much larger price,—further than the difference between ready money and credit. Two invoices are always sent to the customer,—one for credit, and the other for ready money. On the land I possess myself, I spend about £1200 or £1400 a year on manure, and I spend £2400 or £2500 a year on manures and feeding stuff together. I don't know that the system of fore-renting would take well at starting, but I think it would secure good tenants. It would operate a little against the lower class of tenants, who had not sufficient capital, but, if they were driven out, better tenants would be got in their place. The men without money might be driven out, but men with money would come in. If the law of hypothec was modified, and the terms for paying rent altered so as to make the landlord safe, the profession would be raised, and men of capital would be induced to come into it. *Q.* Would a modification of the law content you, or would you have entire abolition?—*A.* If the landlord was paid fore-rent, he would not require much protection after that. Suppose I entered my farm at Whitsunday 1864, and paid my first rent at Candlemas and Lammas 1865, I would give him the full rent of the farm the year I produced it; and if he got that, he would be very safe. *Q.* You spoke of a modification; do you think it ought to be modified, or entirely abolished?—*A.* I am not prepared to answer that question; but I think, if the land was fore-rented, there would be very little use for the law.

To Mr Murray.—If there was any change in the law, the rights of landlord and tenant under existing leases should be unaffected.

Alexander Henderson.

To Mr Hope.—In Fife the entry is entirely a Martinmas entry. The tenant enters at Martinmas, and the outgoing tenant roups his entire crop in the stack-yard. The tenant enters to the bare riggs of land, and he generally pays his rent at Candlemas and Lammas, after reaping the crop. The difference between the credit and cash price of manure is about ten per cent. I think it would be a greater inducement to tenants generally to farm thoroughly well up to the last year of their lease, if the entry was at Martinmas instead of Whitsunday.

To Mr M'Lagan.—A good many new tenants have come to East Lothian of late years. They have not all done well, but many of them have.

To Mr Fleming.—No case has come under my knowledge in which a farmer has experienced difficulty in selling his crop in consequence of the law of hypothec.

To the Chairman.—I have not known a case in our district, of the crop having been followed. I have only heard of the Dalhousie case about thirty years ago.

To Mr Hope.—I have not known any case where parties had to pay twice for the grazing of cattle or sheep.

Monday, December 19, 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.
THE LORD PROVOST.
THE SOLICITOR-GENERAL.
MR DUNDAS.
MR MURRAY.
MR FLEMING.
MR HOPE.
MR M'LAGAN.
MR CURROR.

(10.) MR GEORGE HARVEY.

George Harvey.

To the Chairman.—I am tenant of Whittinghame Mains, East Lothian. I am 60 years of age, and have been engaged in the practice of agriculture for 40 years. I have been treasurer to the East Lothian Agricultural Society for 17 years. The extent of my farm is fully 400 imperial acres, and my rent is from £850 to £1050. My term of entry is Whitsunday and separation of crop, and the rent is payable at Candlemas and Lammas, after the crop is reaped. I have not personally experienced any disadvantage from the law of hypothec. I don't think it has told much, till perhaps recently, in the way of increasing the price of manure. I do not use so much manure as some of my neighbours, as my land is not adapted for potatoes, but I get from 24 to 28 tons of Peruvian guano yearly. I have used very little of any other special manure. I am bound to use all my straw as manure. My expenditure for feeding stuffs is about £100 a year. I think the law of hypothec has the effect of making land higher rented than it would otherwise be, from the power that the landlord has over the means of the tenant It brings men into the field as competitors for farms who would not otherwise be so, and who are non-practical men; and it is very difficult to convince a proprietor or factor that the highest rent is not about the best thing going, provided there is any capability at all to take the land. *Q.* Do you mean that landlords take men without inquiring into their means, and that they take men of insufficient means?—*A.* They have often means, but I think it induces proprietors and factors to take men in somewhat of a reckless way. During the 32 years that I have been in East Lothian, I have known many instances where non-practical men have remained a very short time on their farms. *Q.* And your belief is, that that has been occasioned by the landlord relying on the right which the law of hypothec gives him?—*A.* I don't mean that altogether; but it has the effect of inducing the proprietors and factors to take men a little recklessly. That, however, is only on some properties; it is not universal in the county. So long as the farms continue back-rented, I think there is some reason for keeping up the law to some extent, though not so fully as at present, because the proprietor

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has a fair right to have a certain control over his property. Suppose the rent of 1863 was unpaid at Lammas last, when it ought to have been all paid, I think the proprietor should have a right to sequestrate, and to use his hypothec upon the live and dead stock on the farm. His right should extend to the recovery of rent in arrear; but for the current crop he should only rank as a common creditor, with manure merchants, bakers, brewers, smiths, wrights, etc.

To Mr M'Lagan.—If the stock did not pay the rent, I am not sure that I would give him a preferable claim on the ensuing crop.

To the Chairman.—My opinion is, that the entire abolition of the law would introduce a system of fore-renting, and the proprietor is entitled either to a hypothec over one crop, or to make it fore-rented—viz., to make the first half-year's rent payable at Martinmas, and the other half at Candlemas, after the first crop is reaped. Even if the law were abolished, I think there should be no rent payable till the first crop is reaped. I don't know whether landlords would exact any other security if the law were abolished; but I think they are entitled to look after their property in any fair way. Fore-renting would be an advantage to men with capital. I don't think the abolition of the law would have very much effect in lowering rents. It would put tenants in a more satisfactory position. There would be short accounts between them and their landlords, which often make long friends. The competition for farms might be diminished, though I cannot say to what extent. Since the recent fall in prices, competition has a little diminished.

To the Solicitor-General.—*Q.* Can you give us any facts which have occurred in your experience, showing that the law of hypothec has operated hardly?—*A.* I was judicial manager on a farm in East Lothian about 12 years ago, and I very much pitied the baker who supplied bread for the harvest, and the smiths and wrights and general furnishers for the farm. The tenant had got into arrears, and the landlord sequestrated him for his rent. I don't know if the landlord got full payment, but the other creditors suffered. There have not been many cases in East Lothian, within the last 30 years, in which the law has been put in operation, so far as my knowledge goes. If the law were abolished, the landlords would act wisely in protecting themselves by stipulating for forehand rent. Rents payable at Martinmas and Whitsunday, after the crop is reaped, are partly backhand rents. These are not the common terms in East Lothian, and I don't know the practice in other counties. I don't think the striking of the fiars prices is a very important element in fixing the terms, because a certain amount has to be paid at Candlemas, and the fiars prices are always struck before the residue has to be paid. The object of back-rents is to give the tenant an opportunity of turning his crop into money before he is called on to pay his rent; and, in consequence, he requires less capital to begin with. If the landlords were to stipulate for security by fore-rents, I think the rents would be considerably reduced. Fore-rents are just prepayment, and back-rents are credit, which is at present accompanied by the security of the hypothec. If that security were withdrawn, the same length of credit would not be given. By reason of the long credit the landlord gets a higher rent, and that higher rent is obtained without risk, in consequence of the security of the hypothec, which is a security at the expense of other creditors. I have known several instances of non-practical men who have remained only a short time in their farms,—that is, owing to their offering foolishly high rents, not knowing the value of the subject; and in many cases I think landlords would not have accepted these men at all but for the security of the hypothec, because under the present system they are almost sure to get the whole or nearly the whole rent. If the law were abolished, I think landlords who had confidence in a tenant, that he knew his business, and had sufficient capital, might either back-rent or fore-rent with perfect security. Without the hypothec I think they would undoubtedly look more anxiously to the reputed capital and credit of the men they dealt with. I know some proprietors who will not take an unpractical man at all. My opinion is, that if the law were abolished to-morrow, the landlords would have no difficulty whatever in getting safe men to let their farms to in ordinary times: there might be crises when there would be more difficulty. I think there would be a sufficient competition for farms among men of competent skill and capital, to keep the rents up to the full value of the land, and that, if the landlords exercised reasonable care in the choice of tenants, they would be quite safe without the security of the hypothec. I have known many men from other professions who made

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very good farmers; but I have known an immense number who knew nothing of the business, and who, having offered too much, lost heart, and annoyed the proprietor and all concerned. The abolition of the law of hypothec would throw a number of these unpractical men out from the competition for farms, and very many of them would have great difficulty in getting in at all. There are not many of the poor but industrious class of tenants in East Lothian; though I have known many industrious men in the last 20 years, who came to East Lothian with very little capital; but where they had good farms, they made a large amount by growing potatoes some years ago.

To Mr Murray.—The practical result of fore-rents would be to lessen a tenant's capital by the amount of a year's rent. In many cases tenants take farms fully equal to their capital. For his own security the landlord would be entitled to insist on fore-rents, and the effect of that, as regards the other creditors, would be the same as if he had a preference to the amount of his rent.

To Mr Dundas.—I do not know whether the landlord would insist on other securities, so that he might not be placed in the position of an unsecured creditor. It is difficult to say what the fall in rents might be, if the law were abolished: it would depend upon circumstances. Under the present system, the proprietor is almost secure. Taking any man who has anything to show in the shape of capital, he can hardly be a loser; but, under a system of fore-rents, he would be more agreeably secure.

To Mr Hope.—A tenant who was not in a good position would fail sooner, if part of his capital were taken to pay a fore-rent. As I understand, proprietors at present are practically secured in two years' rent. If the rent of 1863 was unpaid at Lammas 1864, the proprietor should have a right to seize on the live and dead stock on the farm, and that ought in almost all cases to pay him; after that, I think, the proprietor should only rank as a creditor along with bakers, brewers, etc. On some estates in East Lothian, non-practical men are not accepted as tenants: in these cases, the abolition or modification of the law would make no difference to the landlord. I do not now occupy the same farm which I at first did in East Lothian. I had considerable difficulty in getting a farm at the rent which I desired to give; but if farms had been fore-rented, I don't think I would have had the same difficulty. A modification of the law would make landlords keep a better look-out for men of capital and capability to manage the land. It would be an advantage to agriculture, and to the proprietor frequently in the end.

To Mr Fleming.—Fore-rent properly means the payment of rent before the crop is reaped. In the case of an arable farm, the entry to which is at Martinmas, if the rents were payable at Whitsunday and Martinmas following, I think that the landlord would be pretty secure, and that he would require no other security if the law were abolished. Supposing the rent payable at Candlemas and Lammas as at present, I think he should have a preferable right to the past year's rent, which would then be completely due, but I would give him no preference for the rent of the current crop. I don't know that there is any distinction in principle between the two crops, but I have a sympathy with the landlord for one year. If the crop were still standing, he might take it out of the stock or crop; but there is hardly ever a case of the crop standing and the rent unpaid. I have not myself known any case of a farmer having difficulty in selling his crop, owing to the existence of the landlord's right to follow it.

To Mr M'Lagan.—By an unpractical man I mean one who knows nothing of his business. If a man had studied farming in Berwickshire, and came to East Lothian with plenty of capital, I don't think he should be rejected as unpractical. The unpractical men are sometimes men of capital and sometimes not. At present, many landlords exact security for the proper stocking of the farm and for the first year's rent, and I think that is the exercise of a very fair caution. If the law of hypothec were repealed, I don't think many tenants would agree to give them security for the rents during the whole lease. The effect of fore-renting under a change in the law would be, that many tenants without sufficient capital would require to take smaller farms, and some who at present keep foremen might have to work for themselves; but I am not much alarmed about the status of the tenants being reduced.

To Mr Dundas.—I have not myself felt humiliated or degraded by the operation of the present law. There has been a deterioration among tenants during my experience. That has decidedly been the case in East Lothian.

George Harvey.

To the Chairman.—I think rents have risen in Scotland to too high a rate; and I know some farmers in good position who will not allow any of their sons to become farmers. If the present law were abolished, the rights of parties under existing leases should not be affected. I have no doubt that its abolition would make judicial factors much more strict in exacting payment of rents.

To Mr M'Lagan.—Agriculture has progressed in recent years, but we have not the same class of tenants.

To Mr Curror.—The people, who come from other professions to that of farming in East Lothian, in many instances offer very high rents.

(11.) Mr THOMAS MYLNE.

Thomas Mylne.

To the Chairman.—I am tenant of Niddrie Mains, Mid-Lothian. I am above forty years of age, and have been engaged in agriculture all my life. I farm fully 500 imperial acres, and pay upwards of £2000 a year of rent. My term of entry is Martinmas, to the whole farm; that is a common term of entry in Mid-Lothian. My rent is payable at Candlemas and Lammas, after the crop is reaped. I am within three miles of Edinburgh. I lay out above £1200 a year on purchased manures. Mine is not a feeding farm. The produce is mostly sold off the ground, but I spend about £200 a year on feeding stuffs. I think the law which follows grain after it is sold off a farm is a hindrance to trade, and creates a certain distrust among mercantile people. I think that is a most objectionable part of the law of hypothec. I believe that part of the law has seldom been put in force. I think the landlords are probably ashamed to enforce it. I sell most of my barley by sample in the offices of brewers in Edinburgh; and under that law these men might feel a distrust of me, and want to know how I stand with my landlord. I think there should be no hypothec after a *bonâ fide* sale, delivery, and payment. There is also a case which very often happens, where the turnips and grass of a farm are let by the tenant to a third party, and I think it is understood that the hypothec only extends to the price of the grass and turnips consumed, and not to the stock itself; but I think, where a third party has paid the price of the turnips and grass up to a certain date, though not for more than his stock has consumed, it should come under the same class as produce sold off the farm, paid, and delivered. If the party had prepaid the turnips or grass, the case would be different: that would be payment before delivery, while in the other case the stock has consumed the crop. In the case of prepayment, I think the hypothec should remain.

To Mr Carnegie.—I mean to the extent of the turnips and grass left,—not going back on what has been consumed.

To the Chairman.—I also think that the law extends over too long a period. I think it should apply merely to the current year.

To the Solicitor-General.—I mean that, entering to the farm at Martinmas, the hypothec should extend to next Martinmas, and forty days after that should be allowed to the landlord. I think he should have a hypothec over stock and crop for the current year's rent. *Q.* You would give a hypothec over the crop for the rent of that crop, but to terminate at a limited period after the term subsequent to the reaping of that crop, without regard to the conventional terms of payment?—*A.* Yes. The hypothec should terminate with the Martinmas after the crop is reaped, or forty days afterwards.

To Mr Carnegie.—In the event of bankruptcy, the landlord should have a preferable claim for one year's rent and no more, and his right should expire forty days after Martinmas.

To the Solicitor-General.—*Q.* Is there not this practical difficulty, that where the first half of the rent for crop 1864 is conventionally payable at Candlemas 1865, you have reaped the crop of 1864, the term of Martinmas is past, and the hypothec would be gone?—*A.* That comes to the question of existing leases: some arrangement would require to be made as to them. If the legal terms were followed, the last half of crop 1864 would be payable at Martinmas 1864, and what I have stated would suit that case. For existing leases, where the payment is postponed conventionally, an arrangement would require to be made. I think existing bargains should be recognised; but, if the tenant was willing and able to pay his rent at the terms I have stated, and the landlord allowed him interest for doing so, there is nothing to hinder them

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coming under this system at once. When I say that that part of the law which permits the following of grain occasions distrust, I mean that parties are more wary in purchasing from tenants when they know they will be liable to pay the price over again, if the tenant does not pay his rent. That is so seldom exacted, that one can hardly estimate any decided loss from it. It would operate to some extent where parties are not sure about the position of a tenant, but it would not operate at all where they are dealing with a tenant in whom they have complete confidence. It would operate in every case where the right of following was of any value to the landlord. *Q.* Where a man buys from a tenant a portion of his crop, which the tenant sells to enable him to pay his rent when the time comes, he is truly put in the position of cautioner to the landlord that the tenant will pay his rent?—*A.* Yes. I may state that in putting stock out to turnips or grass, I have felt inclined, before paying the tenant, to ask the landlord or his agent about his rent, if I was at all doubtful as to his position; and that is a very unpleasant thing to do. I should rather avoid dealing with such a tenant. *Q.* Then you are of opinion that the landlord, who chooses the tenant, should take the risk of the tenant paying the rent, rather than the purchaser from the tenant?—*A.* Yes, decidedly.

To Mr Murray.—My opinion is, that the result of a change in the law would be, that landlords would make their farms fore-rented; and the second half-year's rent being payable at Martinmas, the whole rent would be due at a time when the landlord could make his hypothec available.

To Mr Carnegie.—*Q.* Would you confine the landlord's right of hypothec to the crop of the particular year, or would you extend it over any crop and stock on the farm of whatever year?—*A.* I would give him a right of hypothec over the whole crop on the farm at the time, of whatever year, and over the live and dead stock too.

By the Lord Provost.—Turnips are generally let to a third party at so much per acre; and under any lease I know of the tenant has a right to do that. It may also be very good management for him to do so. The hypothec attaches to the tenant's own stock, but not to the stock of the third party so taken in.

To Mr Fleming.—I think private sequestration is the worst feature of the hypothec law. Within the forty days I think the landlord should declare the tenant bankrupt, make the sequestration a general one, and publish it. The form in which the landlord would get the preference for the one year's rent, would be that he should rank preferably on the sequestrated estate under a mercantile bankruptcy, to the extent of the crop and stock upon the farm. I would abolish the system of sequestration for rent as it at present exists. Whenever there is a sequestration by the sheriff, it should be published and be made a general sequestration, and the lease should be declared at an end as from the Martinmas term. The use of sequestration should be equivalent to an act of bankruptcy, from the date when the inventory is taken. Any improvements made by the tenant in the shape of draining, and unexhausted manures, would be forfeited to the landlord, as at present.

To Mr Curror.—When I have put my stock into a tenant's turnips, I have sometimes felt uncertain lest I should have to pay the rent over again. I never had to pay it over again, but I have probably thought it necessary to inquire the position of the tenant from the landlord or his agent.

(12.) Mr JAMES BRODIE.

James Brodie.

To the Chairman.—I am tenant of Thornton Loch and Leaston in East Lothian, and also of Ridpath in the parish of Longformacus, Berwickshire. I farm altogether 3300 imperial acres. The last-named farm is a pasture farm, except about 300 acres arable. The rent of Thornton Loch is a wheat rent; the others are money rents. For the whole farms my rent is sometimes under and sometimes beyond £4000. The term of entry to Thornton Loch and Ridpath is Whitsunday and separation of crop; to Leaston the entry is at Martinmas. The rents for Thornton Loch and Leaston are payable at Candlemas and Lammas, after the crops are reaped; the first payment being in the one case a year and three months after entry, and in the other a year and nine months after entry. Ridpath is a sheep farm, and is fore-rented. I enter at Whitsunday, and pay the first rent at Martinmas following.

James Brodie.

I have felt the hardship of the law of hypothec in this respect, that, being in the habit of taking turnips on other farms, I have had to pay for them twice. Having prepaid the tenant, I was called on by the proprietor to pay over again to him the price of the turnips which had been consumed by my sheep on the field. That happened just once; but on another occasion a similar claim was made against me, which was not insisted on. My stock had been removed before a sequestration was served upon the tenant, and it was doubtful whether the landlord had a right to ask me to pay; but I refused payment, and it was not insisted on. I have heard of similar cases, but they are not common. Many farmers, however, have not stock of their own to eat their turnips, and they are in the habit of letting them; and it is usual to pay them a sum to account when the sheep are placed in the field, and the balance when the sheep are removed. I have no means of ascertaining whether I can deal safely with a tenant in such a case. I cannot ask him to show the landlord's receipt for his rent, and it may not be due. I have also felt the hardship of the law in regard to seed-corn. I supply tenants with seed; and there have been cases where I got no payment, and the landlord got the benefit of it. *Q.* Would you on these grounds be in favour of abolishing the law?—*A.* I would be in favour of modifying it at all events. I think in such a case as I have stated, viz., a person supplying seed-corn, he should have as good a claim as the landlord in the event of the tenant failing. *Q.* Would you give the landlord any preference at all?—*A.* I would. Tenants have often such difficulty in paying their rents, that a great deal of leniency has to be used by the landlord; and if he was not protected, the landlord or his agents would not be disposed to be as lenient as they are. It is difficult to say what the protection to the landlord should be. If the law were abolished, I think the system of back-rents would in all likelihood go out. I think, supposing Martinmas to be made the usual term of entry, the first half-year's rent ought to be paid the Martinmas following. At present the tenant gets till Candlemas. I think that that is too long, and that it operates prejudicially to the landlord and the tenant. It is an inducement to the tenant to take more land than he has sufficient capital to farm. I have known a case where a tenant entered to a farm, but never paid any rent, and was put out in two years. The landlord took all the stock and crop on the farm to pay himself, and did not lose anything, but many in the district lost. I feel certain the landlord would not have taken that tenant, if he had not been secured by the law of hypothec.

To Mr Fleming.—The abolition of the law would make landlords more particular in the selection of their tenants,—in seeing that they had capital, and perhaps skill too. In the case I have mentioned, some of the other offerers were men of capital, but the highest was chosen. I don't know what recommendations the landlord had of him. Possibly he had good recommendations.

To Mr Curror.—There was a considerable difference between his offer and that of the others. It was thought he had offered a great deal too much rent for the farm.

To Mr Fleming.—I think that merchants supplying seed-corn, or manure, or tiles, or lime, should have some preference, because at present the landlord in the event of a sequestration gets the benefit of all these articles. The landlord gets everything, and the other creditors too often get nothing. *Q.* What is your opinion as to this proposal,—that, supposing your term of entry to be Martinmas, the landlord should be entitled to a preference over the stock and crop for the previous year's rent, if he exercises his right of hypothec within forty days after Martinmas?—*A.* I think that is too large a preference for the landlord, but I would give him that rather than give him no protection at all. I think it very likely that the effect of a change in the law would be to make proprietors fore-rent their farms; landlords would wish that or some other security for the rents being paid. I am not prepared to suggest what amount of preference should be given to the landlord, but I am of opinion that he should have a preference. I should certainly draw a distinction between the case of a landlord who ties up his lands for 19 years by a lease, and the case of a merchant, who sells his goods and need not go into a second transaction unless he likes. I think the law of hypothec also operates injuriously to farmers by preventing bankers from assisting them with money. At certain seasons, when stock is required to eat their turnips, such advances would be very useful to them; and

I think it would assist their credit, even though they were unable to give security beyond their own personal obligation. James Brodie.

To the Chairman.—The back-rent may be virtually a loan from the landlord, but the tenants pay for it in increased rent.

To Mr Dundas.—*Q.* Could you get a loan more easily from a banker than you get it in the shape of a backhanded rent?—*A.* I prefer cash payments, and I think it would be more legitimate if shorter credits were given on land.

To Mr Fleming.—I draw a very wide distinction between the right of the landlord to follow a crop removed from the ground and sold to a *bonâ fide* purchaser, and the right to attach by sequestration what still remains on the ground. The one is much more objectionable than the other.

To Mr M'Lagan.—I am not in favour of repealing the law without some substitute, but I am not prepared to state what the substitute should be.

To Mr Hope.—I think tenants generally pay too dear for the credit given them by the landlords in the shape of back-rents. I sell all my crop on Thornton Loch farm by sample,—not in bulk; the sample-bag is shown, and the stock is taken to the most convenient station.

To the Lord Provost.—I think all articles applied to the land should be put in the same position as seed-corn. Lately two tenants failed in my neighbourhood, after having been supplied with lime to the extent of £500. That lime is lying on the farms partly unapplied, and the landlord gets the benefit of it; while the man who supplied the lime cannot take it away, and has no preferable claim for payment, but merely ranks as a common creditor. That is a very hard case; and I think people who supply lime, tiles, etc., should have some preference, where the land has got the benefit of them—say an equal claim with the landlord.

To Mr Hope.—When land is fore-rented, and when a farmer fails, there will be at least a year's rent more divisible among the creditors than otherwise. At present there is little or nothing to the creditors, because in most cases it takes nearly all to satisfy the landlord's preferable claim. I have known landlords so lenient with their tenants, that they lost their right of hypothec over the previous crop; but that is not common; they generally endeavour to protect themselves against loss.

Tuesday, December 20, 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.	MR HOPE.
MR DUNDAS.	MR M'LAGAN.
MR MURRAY.	MR CURROR.
MR FLEMING.	

(13.) MR WILLIAM HOPE.

To the Chairman.—I am a corn, seed, and manure merchant in Edinburgh. My firm (MacLean & Hope) has large transactions in these articles. We deal with a large number of farmers; most largely in the Lothians, but also in other parts of Scotland. I find that, on the average of the two years 1863 and 1864, the total amount of seeds, guanoes, and other manures and feeding stuffs which we sold in the three Lothians, was £190,000 for twelve months: our dealings with other counties are on a smaller scale. During the same time we bought about £75,000 worth of all kinds of grain from the markets around Edinburgh. The principal markets from which we make these purchases are stock markets. The stock is put down in the market, and generally delivered that day; though to a large extent, in East Lothian, Edinburgh, and Dalkeith, the bag is only put down, and the bulk delivered the following day, or two or three days after- William Hope.

William Hope.

wards. The mass of what we buy is presumed to be in bulk. It is put on at the station nearest the farmer; but the day he sells it, it is in his barn at home. In Edinburgh we pay the parties with whom we are acquainted, if the stock is at the railway station, against a delivery order. If it is there, and we get a railway receipt or a delivery order, we pay that day; if it is at the Edinburgh station, the whole is entered in the market books as sold, equally as if it were in the market. At Haddington they enter the quantity given in by the farmers, and report the sale as if it were on the spot, and the buyer and seller arrange how and when it is to be delivered; but the whole is entered as sold, whether it is at the railway station or still in the farmer's barn. The same rule is followed at Dalkeith. About three years ago we had some difficulty as to payment before delivery of the bulk, the merchants refusing to pay till the stuff was brought forward. Some farmers ask us to pay at once, but most of them don't ask payment till it is delivered the following week. Under the law of hypothec, I have been called upon to pay over again once for grain and once for seeds. The first case was a parcel of barley bought in Edinburgh market in the way I have been describing. A four-bushel bag was put down, and I bought it on the Wednesday, and paid for it to the serving-man, not knowing that it was not in the market. I gave him the address, and afterwards found out that it had not been delivered till next morning. It was sent on by the Caledonian Railway to a distiller in the west. He got possession of it the following day, and the day after I got an application from the landlord's agent for payment of the price of the barley. I was advised to resist the claim; and, from the fact that it had been mixed with a large quantity of other grain at the distillery, I thought it could not be taken back. A correspondence was carried on for a month, and the claim was then given up, no action having been raised. I had bought the barley in the Corn Exchange, and the delivery was at the Caledonian Railway. It ought to have been on the farmer's cart in the Grassmarket. I bought it and paid for it on the understanding that it was in the market-place. In the other case, I bought a parcel of seeds by sample in Edinburgh market; they were delivered next morning, and paid for the same day. About eight days afterwards we were applied to for payment of the amount, and we were about to pay it rather than go to law, being advised that we had no case, but we got a friend of the proprietor to speak to him, and he directed his agents not to go farther. The amount at stake in that case was £180, and in the case of the barley, £56 or £58. These are the only two cases in which such a claim has ever been made against us, and we have been fifteen or sixteen years in business. We have suffered from the operation of the law very seriously, in the way of losing money by bankrupt farmers: we have lost very considerably from that cause. Another serious matter is, that we are quite unable to learn the position of tenants as regards their landlords. They may be very much behind with their rents, and we have no means of knowing it. I find that the amount of our rankings upon bankrupt estates for the last two years, was £2400, and the dividends amounted to about £450, or an average of 3s. 6d. in the pound. These losses occurred in a great many counties—the Lothians, Peebles, Caithness, Moray, Stirling, and Berwick shires. In some cases we got nothing at all. Our terms of credit are three months for Peruvian guano, and four months for other manures. We profess to exact payment at these terms, but we have frequently to give longer credits. If we had not to incur risks in many sales to the extent which we do by long credits, and if they were altogether cash transactions, I have no doubt the trade might be conducted with equal profit to us, and with a saving to those now buying on credit terms, to the extent, say, of 2½ per cent. Supposing the law of hypothec were abolished, and the uncertainty as to the tenant's position removed, I have not the least hesitation in saying roughly, that the prices would be reduced to that extent.

To Mr Hope.—The highest dividend I ever received from a bankrupt farmer's estate was 10s. in the pound. That was in a sheep farm, and I believe it was fore-rented. Taking different parties chosen throughout the higher and lower parts of the Lothians from 1855 to 1862, I find that in one case the value of the seeds, manures, and feeding stuffs used, is nearly three times the rental of the farm. The rental is £849, and the expenditure ranges from £1040, 10s. 3d. to £2263. I have never found the winding-up of the estates of bankrupt tenant-farmers advantageously managed for behoof of the general creditors. I have always found there was great difficulty in regard to that. We

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have first to satisfy the landlord, and then we sometimes fancy that we see a little to divide; but we have very frequently to give way under this pressure—that, if we don't give the man a settlement for a certain sum, we will get nothing at all. In one case the farmer's stock at the time he failed showed 9s. to the pound, and we got, as we thought, the landlord to agree to an arrangement whereby the farm should be carried on for a year or two, to give the man time to pay; but he afterwards intimated to us, that, unless we gave a settlement to the tenant, he would take the farm into his own hand; and we had to accept 4s. in the pound, and give him a settlement. That farmer is now carrying on the farm, apparently in better circumstances than ever. I know another case where a farm of about 400 acres was let to a butcher, at a rent much above what the old tenant would give. He got a new steading, and was two years in the farm, when he failed for £2000, and his debts beyond the rent amounted to £3000. The creditors got 1s. 9d. in the pound, and he is now in the farm carrying on as if nothing had occurred; the farm is now well stocked; and that is all within the last two years. In that case the landlord got his rent in full. I never asked a tenant to show his receipts for his rent before trusting him; but in one case a tenant brought the receipts for his rent to induce me to give him more credit, and I afterwards ascertained that his rent had not actually been paid, but that, being bound to make certain improvements, he had gone on improving at an extravagant rate, and had got a receipt from the factor for the rent, as against the money expended on these improvements. The receipt was shown to me to prove that he was paying his rent regularly, and was in a thriving state; and at that time he was due me upwards of £600, which he failed with.

To the Chairman.—The receipts were in the usual form. The case did not come to a sequestration. The receipts were brought to deceive me. The man had got credit to the extent of £10,000, and he failed for that sum. The landlord did not lose anything. An arrangement was made, and the farm was carried on for behoof of the creditors.

To Mr Curror.—It was about October I saw the receipt, and he failed in February.

To Mr Hope.—My general opinion is, that the law of hypothec is a very bad law. If it were not entirely abolished, I think the landlord's hypothec should be restricted to six months, the rent being paid every six months after entry; and then merchants would be in a position to protect themselves,—at least to this extent, that the results would not be so disastrous as they are now.

To Mr Murray.—I would make the farms fore-rented, and give the landlord a preferential claim for six months over everything. If the rent was due at the November term, it should be made payable on 1st November, and sequestration would require to be used between 1st and 11th November. I wish it, however, to be understood, that I would rather have the law entirely abolished; and what I have suggested is only something to fall back upon. We sell grain generally to brewers and distillers, and we send it to other markets. Scotch grain is generally sold cash. As to manures, the buyers have the option of taking them at cash or credit prices. On the same value of Scotch grain and of manures, our loss is very much less upon the grain. The bad management of the bankrupt estates of farmers generally arises from the fact, that the general creditors have very little to say in the matter. I have only known two cases, in which the farm was attempted to be carried on. In the case which I mentioned, the landlord would not allow us to carry on the farm longer than two or three months. I don't think the landlord lost anything in that case.

To Mr Dundas.—In some branches of our trade there is great competition; but in the class of manures, in which I deal, I don't think there is any undue competition. We make all the inquiry we possibly can before giving credit. In regard to Peruvian guano, the credit has principally to do with getting it away from the ship's side to avoid landing charges, because our vessels arrive in January and February, and farmers don't apply it till May, so that they have to keep it beside them three months before they use it. I don't see that the landlord would require to protect himself in some other way, if the law of hypothec were abolished. I think it would be sufficient, if leases contained a clause providing that the land should lapse to the landlord, if the tenant became bankrupt. Nowadays farmers must keep up their land in such condition, that in case of a bankruptcy the landlord, in nine cases out of ten, gets it back better

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than he gave it away. Drainage, fencing, manures, renewal of steading, etc., are carried out at the expense of the tenant, and the landlord gets the benefit.

To Mr M'Lagan.—Very likely the rent of the farms would be less, where the tenants have to carry out these improvements. I believe there are cases where industrious and skilful tenants have in bad seasons been unable to meet their engagements, and where the landlords, upon some arrangement with the general creditors, have allowed the rent to remain unpaid till a better season; but I don't think the law of hypothec has been the cause of that, because I believe such men would not be less trusted without the law. If fore-renting were introduced, men of insufficient capital would have to take smaller farms, but I don't think that the effect would be to throw out the poorer class of tenants altogether. If the law were not entirely abolished, I think what I have suggested would be an improvement. If the rent fell due on 22d November, I would make it payable in the same way as house-rents are, on 11th November. The landlord could sequestrate after the 11th. I would allow him not more than thirty days to carry that into execution.

To Mr Fleming.—I think the abolition of the law of hypothec would enrich the landlord in time; it would draw more capital into the cultivation of the soil, and the land would be better farmed. I think the landlord would also be a little more careful in ascertaining the circumstances of the persons whom he selected as tenants. At present there is a want of care and prudence in that respect on the part of many landlords or their factors. The abolition of the law would also, in my opinion, be beneficial to the tenant. The monied tenant would then invest his money in the soil, getting it at a fair remunerative rent, which at present is scarcely the case. At first rents would be reduced a very little, because more land would be put into monied men's hands, but ultimately it would, I think, have the opposite effect. In certain localities where the land is poor, and where the tendency would be to make larger holdings,—in these localities, where land is much too high-rented, it would have to suffer a fall; but in good localities I think the change would be trifling. I think the abolition of the law would very likely do away with the smaller tenants to a certain extent, though not to a large extent; and I think it would be beneficial to agriculture to throw a certain class of small holdings into larger holdings, and put them into the hands of men of sufficient capital to cultivate them in a superior way. I think it is impossible to look at the question of this law exclusively from our own point of view as manure and seed merchants, because we are so much tied up with all the other interests. I would not confine the landlord's power to sequestrate a tenant to the term of Martinmas after the crop is reaped. I would let him sequestrate whenever the tenant was unable to pay his rent, after it became due. I think sequestration should annul the lease. If the landlord sequestrated at Whitsunday, the crop should belong to the bankrupt estate, giving security to the landlord for the rent till it is reaped. In that way the landlord would always be secured in payment of the rent for the current crop.

To Mr Dundas.—I think a landlord has better opportunities than a manure merchant of ascertaining the character and position of a tenant, before he selects him. I know cases where it is almost impossible that any investigation could have been made. In the case of the butcher, to which I referred, it ought to have been known that he was worth nothing. He was a shepherd two years before, and it was known by the public, that he had made nothing by his business as a butcher; and yet he got the farm, and failed in two years for £3000. The landlord can demand proof from a man, before he lets him a farm, that he is able to stock it, and to pay the first year's rent. I think the effect of the abolition of the law would be to make landlords more careful in letting their farms, because their security would not be so good. In some cases they are not so careful as they might be. I make as careful inquiries as I can before giving credit, but I find it difficult to get at the facts, and am often misled as to them.

To Mr Carnegie.—I think it would be a great improvement, if landlords' sequestrations for rent were published in the Gazette, in the same way that mercantile sequestrations are. I have frequently sold goods to men who were under sequestration, without being aware of that fact, and I have lost in consequence.

To the Chairman.—In giving the amount of manure, seed, etc., purchased by farmers in the Lothians in proportion to their rent, I omitted to say that the excess of such payments over the rent ranges from 170 down to 20 per cent., the

highest being about Haddington and Carrington, and the lowest in the high-rented low-lying districts. This is the range observed in eleven cases, where I have ascertained the exact particulars. William Hope.

(14.) Mr JOHN WILSON.

To the Chairman.—I am tenant of Edington Mains, in Berwickshire. I farm 1140 imperial acres, arable. I am also tenant of Rawburn, a Lammermoor sheep farm, of about 4000 acres. My rent is £3700. I am author of the article 'Agriculture,' in the Encyclopædia Britannica, which was also published separately. My term of entry for all my farms is Whitsunday and separation of crop. My first rent for my low-country farms is payable at Whitsunday, twelve months, and for the sheep farm at Martinmas, six months after entry. The term of payment for the low-country farms is a very usual one, though there are many variations. Under a former lease, my first term's rent was postponed for 21 months; in the lease now current it is brought forward nine months, and that is becoming a very common arrangement in Berwickshire. Speaking generally, I think the term I have named for arable lands is one that very fairly meets the interests both of landlord and tenant. It is a fore-rent so far as the corn lands are concerned, because it is paid three months at least before the crop is ripe. Upon my low-country farms my annual payments for purchased manures, feeding stuffs, and clover-seeds, are pretty nearly £1 per acre over the whole farms. These payments are perhaps not so large in Berwickshire as in some other counties, because there is little or no potato-growing in the county, and the turnips are wholly consumed by live stock. I have suffered no direct loss from the law of hypothec, because I never happened to be the creditor of a bankrupt tenant; but for the last 34 years, during which I have been a farmer, I have had frequent opportunities of witnessing its effects. I have come to a pretty decided opinion, that the law, as it stands, operates injuriously to the whole agricultural interest, including both landlord and tenant. I have observed three classes of evil consequences arising from it. The first of these is of comparatively rare occurrence. I refer to those cases, where persons have had to pay over again to the landlord for produce honestly bought, and paid for to the tenant. I think I could count on my fingers all the cases of that class which have occurred within my own observation, or which I have heard about. They have been felt by the whole community to be a great injustice, and they have caused a great scandal whenever they have occurred. A more numerous and very distressing class of cases are those in which tradesmen, who have furnished commodities indispensable to the working of the farm, have virtually had their property confiscated. The landlord has been paid in full; and, though their commodities have gone into the land, and were as indispensable to the working of it as the labour of the farm-labourers, these tradesmen have either got nothing at all, or a very small composition for their debts. I refer to cart-wrights and mill-wrights, who have put up machinery, which has virtually been confiscated; blacksmiths, saddlers, brewers, bakers, seedsmen, manure dealers, and lime-burners. I have had occasion to observe instances of all these parties, where losses of a very distressing kind have been incurred. The third point to which I have referred is really the worst of all. I allude to the influence which the law has upon the letting of land. It appears to me, that it has in very numerous cases led to persons being accepted as tenants of farms, who undoubtedly did not possess adequate capital. The tendency of it has appeared to me to be, to exempt landlords or their agents from that prudence and foresight, which it would be otherwise necessary to use in such important transactions. I know that there are many landlords and agents, who act as cautiously and prudently as they would if the law did not exist, but the tendency is as I have said; and I have seen very numerous instances, where the effect has been to lead to the acceptance of tenants, who never ought to have been put in such a position. Where I have had the opportunity of examining lists of offerers for farms, I have observed that the men of least means were usually most reckless in their offers. Those who were trading on insufficient capital, or on borrowed capital, were less cautious than men who had substance of their own. I have also seen this consequence ensue, that the landlord, by accepting a man as tenant, and having of course an opportunity that nobody else had of inquiring into his means, gives him facilities for obtain- John Wilson.

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ing credit which he would not otherwise have; and I do think that a serious injury is done to those tradesmen around who are naturally led to deal with the man, and who have not the same opportunities of knowing what his real circumstances are that the landlord must have. That effect of the law is of very frequent occurrence in my observation, and I think it is the worst effect of all. I cannot say that I see my way to a total abolition of the law, because I think the landlord should have a reasonable security; but I think it should be shortened considerably in its operation. I understand that it enables the landlord virtually to obtain payment of two full years' rent (taking into account the stock and growing crop), leaving nothing to the other creditors at all. Now I think that is far too extended. When the law originated, the state of the country was very different from what it now is,—there was not money either in the hands of landlords or tenants, and the rents could only be paid by time being given; but the state of matters is now so different, that I think there ought to be a corresponding change in the law. The earlier payments of rents, which are now becoming common, meet the case to a considerable extent; but I think, when the first term's payment arrives, if the man is not prepared with his rent, the landlord should be entitled to have a preferable claim over what is on the farm. I would entirely abolish that part of it, which allows grain to be followed in the hands of *bonâ fide* purchasers. I think that is nothing short of an outrage. A *bonâ fide* sale by sample should be made equivalent to a sale in bulk. I think any change in the law should not affect existing leases. I may mention that, in one of my own leases, it is provided that bankruptcy or failure to occupy the lands with my own stock is to irritate the lease. That proviso was in previous leases, but I felt no hesitation in agreeing to that stipulation, because I saw nothing unreasonable in it. I don't think landlords would require any other security. One main ground on which I desire to see a change, so far as landlords and tenants are concerned, is, that I think it would lead landlords generally to do what many of them do at present—viz., to take the greatest care, by inquiry and by requiring positive proof of sufficiency of means, to ascertain that any man who proposed to become a tenant was really a suitable person to put in that position. I believe it is admitted by all who have inquired into the subject, that both in Scotland and England nothing operates so much against the progress of agriculture and the productiveness of the soil, as its being occupied by men with insufficient means. Every improvement, which has been introduced, has been in the direction of making it needful that a tenant, in order to do any good, should have more means than sufficed under a different state of matters. I cannot say that I have observed any deterioration in the class of men who are tenants. Those in my own county are quite as responsible and respectable a class of men as they were formerly. As I have already said, I have frequently seen men put in the position of tenants who never ought to have been so, and who, I believe, never would have been so, but for the security afforded by the law of hypothec. The changes of tenantry are certainly greater than they used to be. I mean that it has become less frequent for families to remain for successive leases on the same farms.

To Mr Murray.—As soon as the term of payment of rent arrived, if it was not forthcoming, the landlord should do diligence immediately. The landlord's preference should be over the whole stock and cropping of the farm. I am not prepared to say whether there should be a statutory irritancy of the lease upon sequestration. I think the result of a modification of the law would be to make rents forehanded. There are none of the very small class of tenantry in Berwickshire; but there are numerous farms, cultivated by one or two pairs of horses; and speaking generally, that class of tenantry are in as good circumstances, in proportion to the land that they occupy, as many of the larger farmers, and they usually pay at the same terms that others do. A change of the law would make no difference to them.

To Mr Carnegie.—There are many one-pair of horse farms in Berwickshire, and the tenants are in good circumstances.

To Mr Murray.—I know one tenant who farms 90 acres, and pays £4 or £5 an acre for it, and I don't suppose there is a more industrious or thriving tenant in the county. He lives in the vicinity of a town, and may do a little carting. Many carry on carting in addition to their farms.

To Mr Dundas.—Some of these men are purely farmers, and don't carry on any other business.

To Mr M'Lagan.—I do not think that the capital at present employed by

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tenants in farming in Scotland is sufficient generally for the holdings they occupy. Not only in Scotland, but in England, a very large proportion of the land is in the hands of men who are trying to farm it with insufficient capital. If rents were forehanded, the tenant would require more capital in many cases: but a very large proportion of the farms in Berwickshire are fore-rented already. If a tenant had a farm of 200 acres, back-rented, with just sufficient capital to manage that farm, if the law were repealed, and the rents made fore-rented, the tenant would probably not be able to take a farm of that extent again; but I believe there is no lack of capital, and no lack of farmers with adequate capital in the country. The competition for every farm that comes into the market is sufficient proof of that; and I think the change would have the effect of gradually leading to the selection of a different class of men. I don't mean that the size of the farms would be different, but it would lead landlords to be more careful, in accepting offers, to see that the person offering had adequate means to meet the rent and collateral engagements. I would rather not express an opinion on how it might operate on the large class of impoverished cottar-farmers in the Highlands; but, so far as my own observation goes, there is never any lack of competition for land. There are many men who succeed in getting farms at present, who would not do so in a different state of matters, and I think it would be better for themselves and others that they did not. I am aware that in many cases landlords, or their agents, do what I think they should always do, —viz., before closing a bargain with an offerer, insist that he shall produce to them satisfactory proof that he possesses adequate funds to stock the farm; but I believe they are usually satisfied with that without asking anybody to become cautioner for payment of the first rents. I cannot see why, in principle, there should be a distinction between farm-labourers' wages, which are a preferable claim at present, and the accounts of blacksmiths, carpenters, and other tradesmen, who as certainly perform part of the labour of the farm as those who plough and do other agricultural operations, because without their work and furnishings the business could not be carried on. I also think that the accounts of merchants from whom seeds and manures, which go into the land and become the property of the landlord, are bought, stand in a different position from personal debts incurred by the tenant for his household living, etc. I am not prepared to say that these should be preferable to the landlord's claim, but they should stand more on an equality, and I think that would be sufficiently provided for by the change in the law which I have indicated. I have not fully considered how long the landlord should be allowed to exercise his hypothec after the rent became due. It should not be long, but I would not like to express an opinion on that point.

(15.) Mr JOHN NEILSON.

John Neilson.

To the Chairman.—I am a writer in Haddington, of the firm of Todrick and Neilson. I have been in business on my own account in Haddington for fifteen years. My partner and I are clerks to the Corn Exchange, Haddington. Grain is sold in Haddington in three ways. The true way to sell it in Haddington market is to bring it in in bulk, pitch a sack in the market, and from that sack sell the bulk that is upon the street; then the money is paid, the purchaser gets delivery, and the transaction is closed. That is a pure sale in bulk, and that is understood to be the way in which the Haddington corn-market is conducted. The second way is this—a number of the farmers, whose farm-steadings are near a railway station, send by railway a sample bag, which is pitched in the market, and it is sold, the stock being at the farm; a ticket is given out stating that the farmer brings half a quarter, say, of barley to the market, and that ticket is placed in the sack containing the weight and the name of the exposer; and, if the exposer sells twenty or thirty quarters, he brings back the ticket, having entered on it the quantity sold, with the price, which is then entered in the market books. That is a sale by sample, because the price is generally not paid until the dealer gets delivery. The third mode is this—the farmer brings a little bag in his pocket into the market, and sells the grain; but that is very seldom done by farmers. It is more frequently done by grain-dealers from Edinburgh, selling a fine sample for seed. There is no record kept of these last sales. The largest quantity—I would say two-thirds—of the grain is sold

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by the first mode, in bulk. I understand that a sale made in that way would protect the purchaser from having it followed.

To Mr Hope.—The mode of selling by four bushels, and leaving the bulk at home, is a very great convenience to farmers in the saving of carriage. They would rather want their money for a week or a fortnight, than be at the expense of driving it to Haddington.

To the Chairman.—That mode is universal in the districts through which the railway passes.

To Mr Carnegie.—By the first mode the grain is left on the street till it is sold, and immediately after the sale it goes to the station, or wherever the purchaser may direct.

To the Chairman.—I have had a good many professional dealings with the agricultural classes, both in East Lothian and elsewhere. The classes, I think, which suffer most from the operation of the law of hypothec, are country blacksmiths, joiners, bakers, etc. A sequestration seldom takes place where we don't see really hard cases among that class. I should doubt whether that class ought to get the same preference as agricultural labourers on the farm have for payment of their wages, though, to a certain extent, there would be justice in it. Very frequently, when acting for the landlord, I have allowed a blacksmith, for instance, who has contracted to do the smith work upon the farm at so much the year or half-year, to get payment of his account so far as it is matter of contract. One objection to giving that class of persons the same preference, that the agricultural labourer has, is, that they don't exclusively work on the farm. If the preference were only for the current half-year, it would be legitimate enough, but very often those persons are forced to allow their account to run two or three half-years into arrear. I don't think persons who merely provide furnishings, etc., for the family of the tenant should stand in any better situation than any other tradesman. I have seen mill-wrights, blacksmiths, etc., have claims to the extent of £50 or £60 against the bankrupt estate of a farmer, and very likely they would only get from 2s. 6d. to 7s. 6d. in the pound. They often lose from £10 to £35. There is scarcely a sequestration of a farm of any extent, where there is not something of that kind taking place. There have been very few sequestrations for rent in East Lothian for the last ten years. For the last eight or ten years I should say there have not been more than probably three or four in the course of a year. In all these cases the persons to whom I have alluded suffer considerably. I have followed grain after it was sold, and sometimes I have recovered it and sometimes not. I dare say I have not followed it oftener than twice. In one case the grain was actually sequestrated, and in breach of the sequestration the tenant took it to the market and sold it. I do not remember any case in which I followed it, where there had been a *bonâ fide* sale, and no sequestration.

To Mr Murray.—All the cases of following in which I have been engaged were after sequestration, and therefore the tenant was fraudulent.

To Mr Curror.—I don't think the purchaser knew that the sequestration had taken place. In one of the cases the grain was sold, but it was prevented from being taken off the farm, because it was under sequestration. The price was paid to the tenant by the merchant who bought the grain, and I don't believe he got back the money.

To the Chairman.—As the law of hypothec is at present interpreted, I think the crop is really not the tenant's until the rent of it is paid; and therefore it is a little inconsistent that the rent should be postponed till such a time as, in the ordinary cultivation of a farm, the crop falls to be threshed out and disposed of. In my opinion it might be very beneficial to make a change in the terms at which rents are payable. We have the management of an estate in Dumfriesshire, on which the rents are payable at Martinmas and Whitsunday after entry, the entry being at Whitsunday and separation of crop. These would be very good terms for the payment of rent.

To Mr Murray.—These farms in Dumfriesshire are arable farms. There we find no difficulty in letting the land. One farm we let at Whitsunday last, the previous rent of which was £195. There were eight or ten offerers, the highest being £260. The previous tenant left voluntarily, and we advertised it.

To the Chairman.—I don't think that the acceleration of the terms of payment of rent would materially affect the competition for farms; but it would make landlords look a little more particularly to the capital that the offerers

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possessed before concluding a bargain. My firm are factors on one estate in Haddington, and we are agents for three or four more landlords. We find no difficulty in ascertaining the means of persons offering for farms. Through the banks or referees, or some other source, we always get at the capital they possess. I think it is a very great hardship that *bonâ fide* purchasers from a tenant who is not under sequestration, whether the grain is sold in public market or not, should be compelled to pay the price twice by the operation of the present law. I should not like to see the law repealed altogether, but I think it should be altered so as to give landlords a power of hypothecating the tenant's crop and stock for not more than a year's rent, or of hypothecating the crop alone, but not the stocking. Either of these modifications would, I think, be sufficient to protect the rights of other creditors, and give a fair protection to the landlord.

To Mr Fleming.—I don't think landlords are lax in their inquiries as to the character and capital of the persons whom they choose as tenants. We make very particular inquiries as to that, not only on the estates on which we are factors, but also for landlords for whom we merely act as law-agents; and I think it is the exception where landlords are not anxious with reference to the character, capital, and agricultural skill of their tenants. I have a great objection to that part of the law which confers on the landlord a right to follow grain sold *bonâ fide*, and also to that part of it which gives him a right to hypothecate the crop for one year's rent and the stocking for another, which generally secures him for two years' rent, and sweeps away everything the tenant has, leaving his unsecured creditors little or nothing. I think the landlord's right should not go beyond one year's rent, and I would prefer that it should apply to the crop. In principle, the claims of the manure and seed merchant and of the blacksmith, etc., are the same; but my sympathies are more with the poorer sufferers.

To Mr Hope.—I think a landlord would be a little more chary as to whom he took as his tenants, if he had not the great security which he has for his rents under the present law. There are some estates in East Lothian where the farms out of lease are very generally advertised, and there I think the highest offerer is generally accepted. When a landlord resolves to put his tenant under sequestration, he generally does so immediately after the crop is reaped; and in that case there is generally an arrear for which he hypothecates the stocking, while he hypothecates the crop for the rent of the year in which it was produced. I have heard factors and their agents say, that they must sequestrate a certain tenant, but that they will wait till the crop is reaped, or till it is sown. In the one case the seed merchant and the guano merchant have given their goods to the tenant, and in the other the expenses connected with harvest have been incurred, and, when the landlord hypothecates, these parties have only their claim against the estate after the landlord is satisfied. I have frequently known instances where tenants have remained in their farms, paying the landlord in full, and compounding with their creditors; in fact, it looks as if the landlord had resorted to sequestration for the purpose of enabling the tenant to get a settlement with his creditors. In the cases of sequestration where I have paid tradesmen's accounts for contract work, that was done at the expense of the general creditors if there was a surplus, and at the landlord's expense if there was no surplus. It was done with the consent of parties.

To Mr Dundas.—Where the farms are fore-rented, I don't think any security would be required beyond what I have stated. Where rents are so much postponed as they are in East Lothian, they should be payable a year earlier. A change in the law would make me careful to see that an incoming tenant had capital not only sufficient to stock the farm, but to pay a year's rent, before advising that he should be accepted. On the estates which we have charge of in Dumfries, Lanark, and Mid-Lothian, the farms are all fore-rented, and that is found to be perfectly sufficient. If the rents are regularly paid as they fall due, I don't think the landlords need any other security. Some of the parties who have come into East Lothian from other counties have done very well, though some have been unsuccessful. The sequestrations in the county have not been more than three or four a year for the last eight years.

To Mr Curror.—No doubt the large profits from potato-growing in East Lothian for the last half-dozen years have made sequestrations fewer.

To Mr Carnegie.—In the case of trustees and factors for non-resident proprietors, in the absolute management of land, there is often a great temptation

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to take the highest offer for a farm even though the offerer has not adequate capital, and that is very often done by the landlords against the wishes and advice of their agents. I think it is very desirable that, when a tenant is sequestrated by his landlord, all the world should know of it. I have no doubt whatever that in many cases, after tenants have been sequestrated by their landlords, they have been afterwards trusted by manure merchants and others in ignorance of their sequestration.

To Mr Murray.—I cannot say I know any estate in East Lothian where the highest offerer is taken irrespective of any other considerations. When a farm is advertised, the general rule is to take the highest offerer whose capital and character are satisfactory; and I think that is quite fair to the public and to the other offerers. I would not give the landlord any more power of breaking a lease than he has at present. If it is necessary to sequestrate the tenant, and he sells his crop and stock, he can get authority to re-let the farm, on the ground that it is displenished, or if a full year's rent is in arrear he can apply the irritancy. I have not found any practical difficulty in getting rid of bad tenants.

To Mr Hope.—My firm collects rents from about seventy-five or eighty tenants, ranging from £80 to £1500 a year.

To the Chairman.—The tenants from whom we draw the smaller rents are generally fore-rented. These are in Dumfriesshire and Lanarkshire; the large ones are in East Lothian. I don't think the small tenants would suffer from an alteration of the law of hypothec; they are generally fore-rented.

To Mr Fleming.—I am aware that a publication called 'The Black List' is circulated weekly among mercantile men. It contains protested bills and decrees in absence. I think it would be a very proper thing to publish in that 'List' all sequestrations used against tenants.

(16.) Mr JOHN DICKSON.

John Dickson.

To the Chairman.—I am tenant of Saughton Mains, Mid-Lothian. I have also grazing farms in Perthshire. I pay a rent of about £4000—viz., £2000 in Mid-Lothian, and as much in Perthshire. I am largely employed by landlords and tenants as an adviser in agricultural matters, and also in fixing the rent of farms out of lease. I act as commissioner for the Islay estates. I have the whole charge of that property, and I grant leases, collect the rents, etc. My opinion is in favour of a modification of the present law of hypothec. I think that all farm produce sold in open market by sample, and delivered, should be placed in the same position as farm produce sold in bulk; the landlord would not then have a right to follow it. By far the greater part of the farm produce is sold by sample. I sell all my grain by sample, even in Edinburgh, where there is a stock market.

To Mr Murray.—The landlord should have his right of hypothec if it was not delivered.

To the Chairman.—I also think that the right of hypothec should be restricted to two half-years' rent,—the half-year past due and the current half-year. It should have no reference to the crop for which it was the rent. The hypothec should extend to the stock as well as to the crop. I don't think that it would injure any one to make the change in the law take immediate effect, even during current leases,—much less so than what the abolition of the Corn-laws did It does not necessarily follow that the system of forehand rents would be introduced, although it might tend to that result. I think the landlords would have sufficient security without exacting fore-rents. The modification which I have suggested ought to remove any ground of complaint on the part of manure merchants, and other tradesmen who deal with farmers. They would certainly have a great deal less cause to complain, and I think it would be a fair and reasonable change for the better, without sacrificing the interests of the proprietors. I do not see my way to the entire abolition of the law. The effect of that would throw out a good many of the poorer classes of farmers too suddenly. Very possibly the time may come when a change of that kind may be made, but I think a change such as I suggest would not so severely affect any class, and would be a great improvement. There are about 200 tenants on the Islay estate, paying rents varying from £20 to £100; the rest are larger tenants. I think the smaller tenants might suffer from the total abolition of the law. At present they farm with less capital than they

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would then require. My opinion is, that the total abolition of the law would have the effect in the first place of considerably reducing rents, but that after probably twenty years it would raise rents higher than they are at present, because it would bring in the application of capital to the cultivation of the land, and that is very much wanted. The general cause of want of success in farming is, as a rule, the want of capital; and that will not be cured so long as capitalists are exposed, by the present state of the law, to competition from men who have little to risk, and who, if they offer high rents, are frequently taken by the landlord in preference to men with sufficient capital, who offer more moderate rents. Even the modification which I have suggested would have some effect in that direction. I do not advocate the total abolition of the law, because I think the change would be too sudden, and would produce great hardship in many cases. If a total abolition were resolved upon, it should not apply to existing leases; but I think the change I propose might be made applicable even to existing leases.

To Mr Murray.—At present landlords have the power of irritating a lease, if two half-years' rents remain unpaid. It might be an improvement to make it a statutory irritancy, otherwise there might be a risk of the tenant getting into bad circumstances, but not sufficiently displenishing the farm to enable the landlord to get rid of him. If the result of the change I suggest were to make forerents, small tenants with little capital would require to take smaller farms, and only farm in proportion to their capital; but to the community at large it would be a great advantage—it would ensure much greater produce from the land and the application of more capital to it. Small farmers without capital would not be able to take the same class of farms; but farmers take farms fully up to their capital much too frequently.

To Mr Carnegie.—Many of the rents of farms are at present too high. I refer to farms which have been let within the last ten years, and which have been put up to competition at a favourable time. Where I know that farms are to be exposed for public competition, I either decline to value them, or state to the proprietor or his agent that the rent which I put on is what I consider the farm is worth, and not what it will bring in the market. When there have been two or three favourable seasons, and farmers are thriving, their farms generally do bring more than the value put upon them; but at present, in many districts, farms brought to public competition are letting rather below the rent which I might put upon them. We have had a series of bad years, and the farming interest is not prosperous, so that there is less competition.

To Mr Hope.—In the districts to which I refer, the lowering of the rents arises generally from the land having been previously over-rented.

To Mr Currôr.—I think the small tenants on the Islay estate are in a much worse position, than they would be in even as labouring men; and, since I took charge of the estate eleven years ago, my practice has been, as much as possible, as the smaller tenants died out, to add the farms together, so as to make them large enough holdings to be farmed profitably. I know we have not much over one-half the number of tenants that we had eleven years ago. That has been done without producing any hardship.

To Mr Murray.—The population on the estate has much decreased.

To Mr Carnegie.—These small tenants pay their rent six months after they get possession, whether they have reaped their crop or not; but the lands are to some extent pasture as well as arable. The entry is at Whitsunday, and the first half-year's rent is payable at Martinmas.

To Mr Dundas.—The custom of the estate is not to collect the rents till December.

To Mr Curror.—The return for grazing is the best half of the produce of these farms. We have no exclusively corn farms in Islay, otherwise the periods of entry and of payment would be different. My opinion is, that, if the law of hypothec were abolished entirely, or rather if we had never had such a law, it would be an improvement; but, as I have already stated, I do not see my way to it now, because it might produce inconvenience to many. I have considered the matter very fully, looking at it both as a land-agent and as a tenant.

To Mr Fleming.—Assuming the tenant to be in arrear for the half-year's rent payable at Whitsunday 1864, the landlord should have power to sequestrate for that and for the rent of the next half-year, and he would have his chance with the other creditors for the following half-year when it was due, if he let

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the rent go so far into arrear. That applies to rents as they are paid now, but I have no doubt landlords would make the payments earlier.

To Mr M'Lagan.—I think landlords do generally exercise caution in selecting tenants, but sometimes they are misled by a high offer, and induced to run the risk under the present law. The bulk of the farms which I value are not advertised. The tenants get them at my valuation.

To Mr Murray.—If rents were made forehanded, I think the immediate effect would be to lower them, and the ultimate effect to raise them. That would take place in about 20 years.

To the Chairman.—Taking land as a whole, I don't think it is let too high.

Wednesday, December 21, 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR FLEMING.
HON. MR CARNEGIE.	MR HOPE.
THE LORD PROVOST.	MR M'LAGAN.
MR DUNDAS.	MR CURROR.
MR MURRAY.	

(17.) MR WILLIAM DODS.

William Dods.

To the Chairman.—I am a seed merchant in Haddington. I have extensive dealings with farmers, and I sell about £10,000 worth of seed in a year. Farmers buy in spring, and it is understood that they pay at the New Year. Many of them pay then, but generally they pay when they buy the new seed. We don't send an invoice of credit and prices; it is mostly all credit. I have frequently sustained loss from the operation of the law of hypothec. If the landlord obtains a warrant for sequestration, the sheriff-clerk sends his deputy to sequestrate, and it is done very quietly in the man's own house—nobody ever hears of it; and that goes on year after year, sometimes for three years, and we are giving him credit without being aware of it. That evil would be remedied by the fact being published in the Gazette or in the Mercantile Test, because then we would stop his credit. I am in favour of abolishing the law of hypothec altogether. I would put landlords in the same position as other merchants. They have the same remedy in a court of law that merchants have, and I don't see why they should have any preference. I don't see any distinction between the landlord who grants a lease for 19 years and the man who deals from day to day. He can make his rents payable at short intervals, and, if they are not paid, he can bring his tenants into the Sheriff Court, just as for an ordinary debt. I have been in business for 45 years, and I cannot say how much I have lost from tenants in that time, but in many recent cases the dividends have not been above 1s. 6d. or 2s. in the pound. I have not had losses from farmers every year. Within the last four or five years, I have lost perhaps three or four times. I think the largest dividend I have received in the last four or five years was 5s.; but that was a case where the tenant was carried on by his friends. I have not considered it, but I should think it would be necessary to preserve the rights of parties under existing leases.

To Mr Hope.—When a tenant is sequestrated, the landlord generally gets two years' rent secured to him,—the crop for the current year's, and the stock for the previous year's. In one case, about three years ago, where I got a dividend of 1s. 6d., the landlord got two years' rent, and a balance of a former year's rent, out of what the incoming tenant paid for the fallow, dung, and young grass. In the parish of Haddington there are 16 or 18 farms, and I think more than half of the tenants have been changed four or five times. There are only two tenants in the parish, whose farms have descended from father to son. These are on one estate.

To Mr Fleming.—Very often men come and overbid the present tenants,

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although they have not adequate capital or judgment to carry on the farm. They can stock the farm, and sow the first crop, and they have no rent to pay for 21 months. They cut the crop and sell it, and pay the first year's rent; but they are running in debt to seed merchants, carpenters, and other tradesmen, and, if they have not capital, they cannot go on. I purchase seed-grain from farmers. I have not experienced any evils from the law of hypothec in that respect. I pay for the grain when I buy it, and I was never called on to pay the price again. I never asked a tenant to show his receipt for his rent. I would rather lose my money than do that. I think the abolition of the law might dispossess the smaller tenants, but it would secure a better class of men. The landlords would make them pay their rents forehanded, or pay half-yearly, and that would be a great advantage.

To Mr M'Lagan.—It is difficult to give an opinion whether the change in the tenantry in East Lothian has been prejudicial or not. Some of the new men have thriven, especially those from Fife. I cannot say that it has been principally through the new men that I have lost money. If the law were abolished, the landlords would give shorter credit for their rents, and a better class of men—men of capital—would take the farms. If a man of capital took a farm, and exhausted the whole of it in consequence of several successive bad years, I think the landlord would be indulgent, and give him a chance of another crop to redeem himself. Landlords generally are indulgent, where they are satisfied that misfortunes arise from bad seasons. Perhaps that indulgence does arise from the security which they have under the law of hypothec.

To Mr Dundas.—Under a new system the landlord might make his tenants find security for the rent, and put more stringent clauses into the lease. In that case the tenant might not be better off than he is now; but it is not the tenant that I am speaking for. I speak for myself and other merchants. I would put the landlord in the same position as other creditors. Let him take the same steps that I would do to recover a debt. I would give him no preference over the crop and stocking, more than any other creditor. Under the new system the tenant would be in the same position as he is at present; some friend would be security for him. At present his stock and crop are his security. A tenant may go on for years under the existing system without any one, excepting his landlord, knowing that he is in bad circumstances. If he was compelled to pay his rent half-yearly, and if the fact of his sequestration were published, he would be brought to a stand-still sooner. If the landlord had bargained for securities, he would then go against them.

To Sir W. Gibson Craig.—I think the landlord would get a better class of tenants by the system of fore-renting, and paying every six months. Land is too high-rented at present. If it was let at a rent likely to be remunerative, many men of capital would increase their holdings. *Q.* Then one of the effects of a change in the law would be that the men of large capital would have a sort of monopoly of the land, and would increase their farms?—*A.* I think so. I don't think there is a good class of tenants in the small farms, and it would be for the advantage of agriculture if they were made a proper size. Small tenants never do any good; if they cannot take large farms, let them become stewards. In back-lying districts, where there are a number of small farms, I would put several of these small farms together and make large ones, fit for responsible tenants. Such men would come from other parts of the country, if they could get a bargain of the land. It requires men of capital to put the small farms into proper condition; and the rent would require to be lower in the meantime, but the landlord would get the benefit in the next lease, because he would get a higher rent. I think the payment of a half-year's rent beforehand, would be very good security to the landlord, if the hypothec law were abolished.

To Mr Murray.—I don't think it was the law of hypothec that enabled the landlord, whom I referred to, to get from the incoming tenant payment of the fallow and young grass, and to set it against a balance of a rent of three years previous. *Q.* Do you not know that the landlord got that under the law of compensation?—*A.* Well, that is as bad as hypothec, when so applied. *Q.* Supposing you had sold a tenant a quantity of grass-seeds, and had bought from him a quantity of oats, and the tenant failed, would you consider it just, if you were called on to pay for the oats, and only allowed to rank on his estate for the grass-seeds?—*A.* No, I think I would balance accounts there. That is done in all bankruptcies. The only security I would give to landlords under a new law

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would be fore-renting, or payment of rents every half-year. I am aware that the landlord letting houses in towns has a security for the payment of the rent. I have no objection to the abolition of the urban hypothec. If you abolish the one, the other should also be abolished. I am a proprietor of houses.

To Mr Carnegie.—*Q.* Do you consider that the hardship in that case of compensation consisted in the putting of the balance due against the unsecured debt, instead of against the secured debt?—*A.* I suppose it took all the secured debt to pay the current year's lease.

To Mr Hope.—I consider that the present system of postponed rents unduly encourages competition for farms. A tenant having to fore-rent his farm would be in a better position to make a reasonable bargain with his landlord. The security, which the landlord obtains under the present law, is at the expense of the rest of the community.

To Mr Fleming.—I am agent in Haddington for the Commercial Bank. We have very little to do with farmers except on deposit accounts. They very seldom have a bill. I suppose there is nothing to prevent the sequestrations for rent being published at present, and I should certainly recommend that to be done. At present the sheriff-clerk keeps that the greatest secret.

To Sir W. Gibson Craig.—Very few farmers have cash-credits at our bank in Haddington. In the cases where they have, we have always two good cautioners. I think there would be no difficulty in finding tenants who, besides paying forehand rents and stocking their farms, would be able to improve them.

To Mr M'Lagan.—I think fore-renting would be sufficient security to the landlord. As a banker, I would not be satisfied with security for the payment of the interest of a cash advance by a tenant; I should require other security. *Q.* The landlord lets his land for 19 years, and you think he should be satisfied with no security except the interest?—*A.* Yes—the interest in the rent paid in advance.

To Mr Hope.—The land would not run away, and the landlord can put an end to the lease, if the tenant does not pay his rent.

To Mr Dundas.—Where the tenant has to make improvements, he will get the farm at a lower rent from the landlord; but I think the hardship to tradesmen is, that frequently the tenant has not paid for manure, tiles, etc., and the landlord gets the benefit of that. I have known a farmer sequestrated with the tiles laid down to be put into the land, but not put in; and, after he was sequestrated, the landlord has taken them away, to drain a different farm altogether with them.

(18.) Mr GEORGE GLENDINNING.

George Glendinning.

To the Chairman.—I reside at Hatton Mains, Mid-Lothian. I hold three farms,—Kirkliston Mains, Auchnoon, and Little Vantage, and grass parks at Hopetoun. Kirkliston is in West Lothian. The rent of these is about £1050. Auchnoon is partly hill; the others are arable. I am also factor for the Earl of Morton, Lord Aberdour, Mr Baillie Cochrane, and Mr Welwood. I have had considerable experience as an adviser in agricultural matters. I have been a tenant for 40 years, and a factor for 24. I am in the habit of valuing lands for letting and for purchasing. As a tenant, I have experienced no inconvenience, either directly or indirectly, from the law of hypothec. I always get manure at its fair market value. I object to the landlord having power to follow grain after it is sold, delivered, and paid for; and I would extend the rule which now applies to bulk markets to sample markets. That is the only change I would suggest in the present law. I think you would ruin tenants altogether if you altered the law. I draw about £28,000 a year of rent, every farthing of which is paid, except £200 or £300 of small balances; but, if I asked these tenants to pay in advance, it would ruin them. Landlords would be in a worse position than manure, seed, and cattle merchants, if they were only to get their rents every six months after entry; because, if I buy cattle, the dealer will not part with them till I pay him the money. Landlords would only be in the same position as these merchants, if tenants paid their rents before getting possession. I do not think landlords would be safe without getting the whole year's rent in advance, because possession of the year's crop is possession for the whole year. I hold that the abolition of the law would ruin tenants altogether. I have 80 tenants on one estate belonging to the Earl of Morton in

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Argyllshire, whose average rents are about £5. They have no leases. I would be obliged to get warrants for removing them all at Whitsunday; and I don't know what could be done with them, for they are fit for nothing else. We are now educating their children thoroughly, and we hope to weed them out in time; but, if we were turning out the old people, it would be like taking the blood out of their veins. I have about £80 of arrears on that estate just now—rather more this year than usual, owing to the bad herring fishing. All the time I have been factor there we have given intimation, that, whenever a man is able to take two of the holdings, he will get them at a fair rent; but comparatively few have been taken. But for the credit which the law of hypothec enables us to give these people, we would be perfectly helpless; his lordship would have to turn them out, for he need not count on 10s. in the pound if there was a change in the law. The landlord is in a different position from any other creditor, who can refuse to supply the commodity in which he deals, till he gets his money; but, if these people once had possession, they would pay everybody before paying the landlord. As to the larger farms, my opinion is, that, if the law of hypothec were abolished, there is not 10 per cent. of the tenantry of the Lothians or of Scotland who could meet their rents in advance. Some of the wealthy tenants think they would get land for half its value if the law was abolished, but I think otherwise. All the land I am factor for will bring the same rent as it now does, under deduction of 4 per cent. for the loan the tenants are getting from their landlords; but I would have to turn out three-fourths of the tenantry in order to obtain that, and these are most respectable men, who are quite able to meet their rent, when they draw it out of the land which they are entitled to pay it from. Therefore I think it is to the tenants that the law of hypothec has been an advantage. Wherever land is fairly rented at present, I will take in hand to get that rent for it if the law were abolished, but that can only be done by changing the tenantry. The man that pays £1000 a year I would have to reduce to a £750 farm, and so on; and I would have to throw out the small ones altogether. In Aberdour I have fifty small house tenants, almost all of whom would have to be turned out, if the rents were asked in advance. I don't think that there is any hardship in the case of manure merchants, seed merchants, blacksmiths, etc., under the present law, because they can refuse to give supplies till they are paid in advance, and, if the land is not properly farmed, they would soon come into my hands, and I would see them put right; but, if these men supply goods on credit, unknown to the landlord, they only perpetuate the evil. I always take care to select first-class tenants, and I believe they get no loan except from the proprietor; and I think no tenant should farm land, unless he has ready money to pay for such accounts as I refer to. I always see that they have plenty of capital; so much so, that I have bound a tenant to lay out £2500 in draining, and £1500 to raise the condition of his land, in addition to £3000 which he would have to pay for stock. Of course the rent was proportionately low in that case. We calculated that the tenant should get 8 per cent. for his money, and I believe that, bad as times are, the tenant will get his 8 per cent.

To Sir W. Gibson Craig.—I know some of the back-lying parts of the country about West Calder. It would not do to throw the small farms there into larger ones, because men of capital would not take them in that part of the country. You would have to keep the farms as they are, but you would have to change the tenantry. A tenant paying £300 now could only pay £240 in advance; therefore he would require to go to a smaller farm, and a few of the lowest would be thrown out altogether. Taking the farms for which I am factor, by introducing ten men of wealth and letting all the others down a step, I could get the rents in advance; but nine-tenths of the tenants would require to take smaller farms; and yet they are all first-class men. If manure merchants suffer, they have the remedy in their own hands. They have only to stop the supplies, and, when I found that the tenant was not keeping his land in proper condition, I would come down upon him. But many of these merchants are anxious to drive a great trade, though many of them have very little capital, and are as needy as some of the tenants.

To Mr Carnegie.—I think tenants should always deal ready money. *Q.* Carrying out that principle, would it not be better if they dealt ready money with their landlords?—*A.* Perhaps it would, if they had begun that way; but the thing has been long established, and the change now would bring on an entire revolution. If we had to begin anew, I admit there is no difference; but the

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hardship is, that you are going to ruin the existing tenantry, particularly the small ones. As to the Argyllshire property to which I have referred, it is no advantage to the landlord to have these tenants there, because they pay just the same as I would get by putting sheep upon the land; and it would be a boon to the landlord to get rid of these small tenants. But, if the law of hypothec were abolished, they could not pay their rents forehand; and the landlord then would be in a worse position than tradesmen dealing with them, because the tradesmen would make themselves secure.

To Mr M'Lagan.—These tenants could not pay fore-rents. At present the landlord has a preferable claim by the law of hypothec. If that law were repealed, and the rents were left backhanded, then the seed merchants and others would be the preferable creditors, because everything would be paid before the landlord's rent became due, and in a bad year the landlord would get nothing. To put the landlord and the merchant in the same position, the tenant would have to pay before taking possession.

To Mr Carnegie.—After a 19 years' lease on fair terms, a tenant ought to have made some money; but I know that three-fourths of the tenants on the properties I am factor for would not be able to pay fore-rents. A tenant should make on an average 8 per cent. on his outlay on the farm; but many of them are living up to their income, and, as a general rule, are not laying past much. I would say that two-thirds of them live up to their income. They have families to provide for, and to put out in businesses or farms; and a fourth of them are just as poor at the end of a 19 years' lease, as they were at the beginning of it. As a rule, they would not have enough of money saved to pay fore-rents.

To Mr Dundas.—Three-fourths of the tenants in the whole of Scotland would be unable to stand the change from back-rents to fore-rents.

To Mr Hope.—I have been factor on the Dalmahoy estate for 23 years, and on Mr Baillie Cochrane's for 24 years. On the Dalmahoy estate, 23 years ago, there was a very bad class of tenants. One of them removed all his cattle, horses, and carts during the night, and I was not able to get them, though I followed them for three days. A third of the tenantry were in that position. They were considerably in arrears, and unable to improve their farms for want of capital. I had to turn them out, and get first-class men, who have the land at a fair value. I have taken 26s. an acre, and frequently £1 an acre, less than was offered for land, rather than not get first-class tenants. I had no difficulty in getting well-to-do men. I wish no rights given to the landlords beyond what seed merchants and others possess. All I say is, if you take away the law of hypothec, you must empower me to get the rent in advance; and after that I will keep the land as secure as it is now.

To Mr Curror.—The small tenants of whom I have spoken enter at Whitsunday, and pay the first half-year's rent at Martinmas. They have no sheep. Many of the families have been there from time immemorial.

To Mr Carnegie.—*Q.* On the other farms connected with Lord Morton's property, if a tenant had been there for one or two leases, and had paid his rent regularly, would not the landlord go on without much change, even if the law of hypothec were abolished?—*A.* I don't know what the landlord would do, but I would not do it.

To Mr Fleming.—If a tenant sold his crop by sample in a sample market, I would not allow it to be followed after the stock was delivered, but it should be delivered by daylight. I object to a private sale of grain on a farm, unless it is publicly delivered. I know a case in Ayrshire where, by means of travelling-mills, a tenant threshed out the whole of his crop, and the landlord's agent got intimation just in time to secure it, before the tenant got the money for it. A tenant is entitled to sell his grain before paying his rent; and, if that was done in open market, I think the landlord should not have a right to follow it in the hands of a *bonâ fide* purchaser. I would object to a private sale, because the landlord may be so easily defrauded by it. I knew a gentleman who let a farm at £750. I told the tenant it was from £150 to £200 too dear; and three or four years afterwards, the tenant applied for a reduction of rent, and on that being refused, he carried off the whole of his stock in one night, and it has never been got. That is what I want to protect the landlords against. I am satisfied that three-fourths of the tenants in Scotland could not pay forehand rents; but they can pay ready money for manures, etc., for which the interest charged by the merchant is about 10 per cent.; and tenants should not take farms larger than

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they are able for. *Q.* Why should they not pay their rent ready money as well as their manures, etc. ?—*A.* If it were the law, they should, but it has not been the law; and I think the law should not be altered, because it gives tenants a great accommodation, without doing harm to anybody. If we are to get a loan, let it be from the proprietor.

To Mr M'Lagan.—If a tenant takes a farm under the present law, he should have sufficient capital to pay the accounts of seed and guano merchants and others; but supposing the law repealed, he ought not only to have that, but as much extra as to pay one year's rent before entering on the farm.

To Mr Fleming.—I have always been obliged to pay ready money for manure. I get an invoice, stating cash and credit price; but I prefer paying cash. I have had almost no cases of sequestration in my experience as factor—only two or three. I don't remember what the dividends were in these cases; in one, I think it was 7s. 6d. I think the fact of sequestration should be published. If I were a proprietor, I would not let my land, unless on the condition that the tenant consumed the crop on the farm, and also purchased £2 worth of manure for every £3 an acre of rent; but there are farms in the neighbourhood of towns, where I allow the tenants to sell off the whole of their crops, on purchasing a proportion of manure in lieu thereof. In East Lothian, the proportion that manure bears to the rent is about two-thirds on the best farmed land; but, though East Lothian has a good name, about two-thirds of the land is not well farmed. I believe all the tenants of farms that are fairly rented can pay their manures as they get them, though they cannot pay forehand rents in addition.

To Mr M'Lagan.—If the rent is only £1 an acre, it would require at least £1 an acre to be expended on manure, besides what is raised on the farm. I think the effect of doing away with the law of hypothec upon the small tenants in Argyllshire and in the Highlands, would be to introduce the clearance system, and to let the land for sheep. I have not had much experience of farms on which only a pair of horses is used; but I have a good many with two pairs. The effect of the abolition of the law on the tenants of these would be to put them out altogether. When I let a farm, I always take the best man, without regard to the sum he offers. A great many take the top man. I would not take him unless he was the best man, whatever his offer was. Many tenants have thriven in East Lothian, who offered higher rents than the previous tenants paid. But for the law of hypothec, I think they would have required to take smaller farms. It has been an advantage to industrious tenants, who had not sufficient capital for such farms. I don't see how they could have got the same capital in any other way.

To Mr Murray.—In all properly managed estates, I think inquiry is made as to tenants before accepting them. I don't think that landlords trust to the law of hypothec to protect them. I believe there would be no lack of tenants, even if the law were abolished. Some larger ones would come in, and the smaller ones would have to go out altogether. I don't think it would lessen the number of farms, but it would throw the smallest class of farmers out; and it would be worse for the tenants, because they would have to take less land in hand.

To Mr Carnegie.—If the law were altered so as to give the landlord a preference to the amount of one year's rent over the whole stock and crop on the farm, that would not be so bad, because it would only take half a year's rent out of the tenant's pockets. That would be giving us a loan of our capital for twelve months.

To the Chairman.—If the change is to be made, let it come when it will, it will always damage the tenantry, and throw them out of the market. I did not mean to say that, if we had been beginning, ready money payment would be an advantage. My opinion is, that the tenant should be allowed time to pay his rent from the produce of the crop he grows. It will always make the same change to the tenant, if he is made to pay rent in advance. I don't think the tenantry in the Lothians, or in Scotland, have been deteriorating. I think they never stood higher than they do at this moment.

To Mr Hope.—I think the bad farming in East Lothian extends to about two-thirds of the county.

(19.) Mr JOSEPH HARPER.

Joseph Harper.

To the Chairman.—I am tenant of Snawden, East Lothian. I farm about 1300 acres of moor, and above 700 arable. I pay £900 a year of rent. My term of entry is Whitsunday and separation of crop. The first rent is payable at Candlemas following entry, the reason being, that part of my farm is pastoral. I think the term of entry is fair enough, but in general it would be better to make it a Martinmas entry for arable farms, with the first rent payable at Whitsunday before the crop is reaped; that would be, in fact, fore-rented. I have not personally experienced any evil effect, directly or indirectly, from the law of hypothec. I don't see why it should make the price of manure higher. I have known guano merchants, smiths, joiners, and general merchants in town and country suffer from the landlord's preference under the law operating prejudicially to them. I think a change in the law is desirable. When the question was discussed two or three years ago, I was so startled with the great injury that the commercial classes and others suffered, that I came to the conclusion that the law should be abolished altogether; but subsequent discussions, and subsequent reflection, have caused me to modify that opinion to a certain extent. I now think that, if the landlord had one year's rent secured to him, that would be a very fair arrangement. I would give him a preference over stock and crop for the rent of that year. I would not go back to previous years. If the landlord let the tenant remain three half-years without paying rent, I would still just allow him hypothec for one year. As the law now stands, the landlord rarely loses his rent. I think he should take a certain amount of risk, though there is a distinction between a proprietor letting his land on lease for 19 years and a merchant whose transactions are from day to day. The merchant can stop his supply of goods, but the landlord cannot turn the tenant out on so short a notice. I think the modification, which I suggest, would give sufficient security to the landlord. My opinion is, that fore-rents would be a natural consequence of such a change in the law. It might diminish the competition for land, but, if men of capital had a fair chance of return, there would always be plenty competitors in the field. It would not affect rents in the long run, though it might do so at first. I think the operation of the present law is unduly to raise rents, by inducing men without capital, and of a speculative character, to come forward and offer rents which are not justifiable—the landlords accepting such men, trusting to the law of hypothec. The law, as at present worked, makes landlords careless. The numerous failures that have taken place among tenants are the best answer to the question whether landlords are careless. Most of the failures which I know of have originated from men commencing farming without sufficient capital.

To the Lord Provost.—I do not myself know of any case in which a party has been called upon to pay twice for agricultural produce under the law of hypothec; but at last Melrose Fair I was asked by a person who had bought lambs from the farm of another farmer, whether it would be safe to take away the lambs and pay for them, as he had since heard that the tenant was about to be sequestrated. I said that, in the event of sequestration, I had no doubt he would have to pay for them twice, and I suggested that he should follow the Lord President's advice in a recent case, and ask to see the tenant's receipt for his rent. He was quite indignant at the idea of putting such a question to the farmer. I would consider such a question put to myself as a personal insult. It is a good advice from a lawyer, but not practicable in business. I then advised him to write to the factor as to his condition.

To Mr Hope.—My term of entry is the general one in my neighbourhood. I get three years grass. Others generally get two years grass, and their rents are payable twelve months later. Lord Tweeddale is my landlord. I am aware of farms in my neighbourhood where the tenant has failed, and paid his creditors a very small dividend, but still continues farming. I think long credits for rents are prejudicial to tenants who have sufficient capital. They affect farmers in the same way as they affect merchants. Their profits are less and their risks greater. I generally pay ready money for my manures, getting the discount.

To Mr Dundas.—I think the long credits for rents induce men without sufficient capital to come forward and offer for land. These men get indebted to all and sundry, and have no means of paying till their first year's crop; and, if that turns out unfavourable, they are ruined or get into difficulties immediately.

Joseph Harper.

I think long credits necessitate a higher rent, and the men get into difficulties in consequence. I don't like the way in which the tenant gets the use of his landlord's capital. Perhaps it does not affect the tenant so much, but it injuriously affects the other creditors. If it is given on fair terms, it may assist a good tenant. If the landlord has a hypothec for a year, I don't think he will run any risk; but, if he chooses to give more credit than that, he ought to run the risk.

To the Chairman.—My proposal is fore-renting, and a year's hypothec on the same year's crop. I don't think there would then be any risk. The non-payment of rent after a certain term should operate as an irritancy of the lease. I think the rights of parties under existing leases should not be affected.

To Mr Curror.—I have no doubt that the law of hypothec has been the means of raising rents in East Lothian, by bringing in as competitors men without sufficient capital. It has also made landlords and their factors careless.

To the Chairman.—I sometimes put my sheep to other farms to eat the turnips. Two years ago I had sheep in the low country on turnips. The price of the turnips was £70, and the value of my sheep was about £400. The tenant was sequestrated, and I was told that, if his sequestration had happened before my sheep had left, they could have been seized. I think it would have been very hard if that had been done, and if I had had to go to law about it.

To Mr Murray.—If the law is, that all I would have been liable for was the rent I had to pay the tenant, I would have no cause to complain. I was quite aware that if I had paid the tenant, and the landlord had come on me, I would have had to pay it over again. I sustained no actual loss in that case. I had not paid the £70.

Tuesday, January 3, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.
HON. MR CARNEGIE.
MR MURRAY.
MR FLEMING.
MR HOPE.
MR M'LAGAN.
MR CURROR.

(20.) MR ARCHIBALD STODART.

Archibald Stodart.

To the Chairman.—I am tenant of Hillhead, in the parish of Covington, Lanarkshire. The size of my farm is about 400 imperial acres. A good part of it is arable, on the banks of the Clyde, but we use permanent pasture. I pay a little over £600 of rent. I have been more than forty years engaged in the practice of agriculture. I had a farm, when I first began, in Peeblesshire, but my father and grandfather have been in the farm of Hillhead for upwards of a hundred years, and I succeeded to my father. The term of entry to my present farm is Martinmas, and the first half-year's rent is payable at next Martinmas. We get the houses and grass at Whitsunday. I have personally experienced no disadvantage from the existence of the present law of hypothec. I have seen some disadvantages arising from the law of hypothec, where the proprietor was guaranteed his whole rents, and others in the neighbourhood were subjected to considerable losses. The accounts to the lime merchant are generally paid about Martinmas, and I have seen the lime merchants incur a loss by giving credit; for, upon the tenant being sequestrated, the landlord gets his rent, and the lime merchant does not get payment of his account. I cannot suggest any remedy for the disadvantage to which I have referred. The proprietor is entitled

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to have some security, but I cannot say what security he should get. He must either fore-rent the land so far, or take security in some other way. I think the proprietor is entitled to go back for six months; but I am a poor judge of these things. If the law were changed, and forehand renting were resorted to, I think it would keep some people from coming forward to offer for farms who had not the means. *Q.* And you think in that respect it would be an advantage to tenants?—*A.* Well, I would rather see the law done away with, to a certain extent, than have it remain as it is at present. It is difficult to say to what extent it should be done away with; but I think that if a proprietor were to have a preference for six months, it is as much as he is entitled to. I would make it something like servants' wages. Servants' wages are a preferable claim, I understand, and I would let the proprietor have a preferable claim for six months' rent; but I am a poor judge, never having been subjected to anything of the kind. I would give him that preference, irrespective of what crop the rent applied to. I do not think there are any other disadvantages in the present law than those I have mentioned. I have been reading the opinions of men much more capable of judging than myself, and I agree so much with the opinion of Mr Gibson of Woolmet, and others, that anything I have got to say would be just like a repetition of what has been already said by them. I would subscribe to Mr Gibson's opinions without any scruple. That comes very much to introducing the system of forehand rent, as the landlord must take some mode of securing his rent. *Q.* Would that not be depriving the tenant of credit which he at present gets from his landlord?—*A.* Well, I entered at Martinmas, and I would rather have paid a half-year's rent at Whitsunday than be subjected to the offers of men competing with me who were incompetent. *Q.* Under the present law, the tenant gets credit from his landlord, and also from the lime merchant. Now, the remedy which you would suggest would be, that, by paying a nearer approach to forehand rent than just now, he should no longer get credit from his landlord. What difference would it make if, instead of that, he would cease to get credit from the lime merchant, and pay him ready money?—*A.* Well, I have seen that done by a coalmaster, who would never give coal to some tenants, of whom he had a suspicion, unless they paid ready money; and so the lime merchants might refuse to give credit. *Q.* I want to know what advantage there would be in depriving the tenant of the credit which he now gets from the landlord, rather than in depriving him of the credit he gets from the lime merchant?—*A.* Well, I do not know.

To Sir W. Gibson Craig.—Except in the competition for farms, I do not think I have known of any tenant suffering from the law of hypothec. We are under very kind landlords in our district. If the law of hypothec is to be abolished, I think the landlord ought to have some security, and I do not see anything else that could be done, than to adopt the system of fore-renting. I think that system would prevent some men that were limited in money coming forward to offer for farms. These men are very often not accepted; but the tenant that the landlord would like to accept is told, that a higher rent is offered by some person, and that, if he does not come up to that, the farm will be let to some one else, and by that means tenants are induced to take the land at a higher rent than ought properly to be given. *Q.* Still the tenantry of Scotland, looking back to the last twenty years, are very much improved in circumstances?—*A.* Well, I think, for the last three or four years, they have not been very well situated. These have no doubt been exceptional years; and the tenantry of Scotland have improved generally in their circumstances, during the last twenty years, under the law of hypothec. I do not know what to attribute that to; but I know that the way, in which a great many young farmers are brought up, is very different from the way I was brought up. I was made to work harder than many of my servants. *Q.* Do you know tenants in your neighbourhood who took farms with moderate capital who have done well?—*A.* Well, they are just about hanging on, the greater part of them at present. *Q.* You are talking of the effects of the last three or four years, but before that?—*A.* Yes, no doubt they have done well; but some tenants live very differently now from what they did at one time. A great deal of land has been reclaimed in my neighbourhood within the last twenty years, especially since tile-draining began in our district. Advantage was taken of the money that was granted by Government in many cases; but the land I drained was drained all out of my own pocket. I do not know that, before the Government grant, a great deal of land was reclaimed by small tenants;

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the larger tenants were generally the leading men in fencing, draining, and everything else. A portion of the land has been reclaimed by smaller tenants. The tenant of a small farm would drain a bit every year, and that was often done without applying to the proprietor, or any one else. It would have been very inconvenient to these men to have been fore-rented. Very likely, under such a system, they never would have been doing anything but driving a horse and cart; but they got on by having the countenance of the proprietor, who was willing to give them a trial, often looking forward to the benefit that was to be derived from the improvement of the land, though he might be a little loser of ready money. Supposing the law of hypothec were abolished, I think there would be great difficulty in fore-renting many who are back-rented in my neighbourhood. Some who stand very small at the bank would be unable to enter a new lease. The system of fore-renting would cause a change of tenantry in the district.

To Mr Curror.—There has not been a great deal of change of farms in my neighbourhood during the last eighteen or nineteen years. Several strangers came in, and some of them were anything but successful. It does not appear that these strangers were generally men of capital. They offered very much more rent than the old tenants. One tenant, about fifteen years ago, was two years in a very nice farm, and there was never a sixpence got from him; but the landlord used no means. I valued the crop upon the farm. If the law of hypothec had not been in existence, I am very doubtful that these men would have been accepted as tenants.

To Mr Hope.—I think that farmers should have the means of managing their farms before they commence. A man should be able to go on unfettered, or he never can do justice to the farm. It is true that, when a landlord gives credit to his tenants by allowing back rent, he does so without any risk to himself. When the lime merchant gives credit, he expects to share in a dividend along with other creditors, if the tenant should be unable to pay. I never knew a case where the lime merchant lost, except one in Dumfriesshire, where the lime merchant and the guano merchant got nothing. One gentleman had sold a very large flock of sheep, and got nothing, and the proprietor got every shilling. The farm to which I have referred as having been returned to the proprietor was not much improved; I think it was rather deteriorated. There have been great improvements in the country in farming generally within the last thirty years. The draining and the use of artificial manures have increased the value of land very considerably. I do not think there is any great wonder that farmers with moderate means should have done moderately well, considering the improvements in agriculture within the last thirty years. I think that the fore-renting of land would put out a considerable class of tenantry in my neighbourhood. I think it is very doubtful whether the landlords would obtain the same rent, if the land was fore-rented, as they do under the present system. Perhaps the landlord would be as well to take a small rent, and be sure, under a system of fore-renting; although not a great many in our neighbourhood have lost much, except by now and then a tenant failing, and in these cases the landlords generally have been secured.

To Mr Murray.—The smaller class of farmers is generally a very industrious class. Some of them, when they were ploughmen, saved every sixpence they could, with the expectation of leasing some little piece of land, which they could not have done if the land were fore-rented. If the law of hypothec were abolished, that class would have to work a little longer, and have a little more capital, before they took any land. *Q.* You said you endorsed Mr Gibson's evidence; but would you send them all to the towns, as he proposed to do?—*A.* I do not know, I am sure, what would be the best thing for them to do. *Q.* On a number of these farms would it be judicious management for a landlord to throw them together; or is it the fact that high land in that way is better farmed in small farms than in large?—*A.* Well, some proprietors have reclaimed land by dividing it into small places, and building good houses for very small places—perhaps ten and fifteen acres, or even seven and eight acres; but the people depended upon something else. They frequently keep a horse working upon the roads, and drive tiles for farmers that are draining. *Q.* Do you think that, as a general rule, a large farm of poor land is not so judicious a management as smaller farms of poor land?—*A.* A great many of the farmers in our district are throwing it more into pasture in the meantime; but we have so many turnips for our stock, and we

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continue ploughing, when, if we had any other way of providing for our stock in winter, we would be better not putting a plough into the ground.

To Mr Curror.—Some of the small tenants of whom I have spoken have been successful after they got a piece of land. I know one case where three brothers went into a farm; it took the whole means of these three men to get in, and now it is a chance whether they will pay another rent or not. The men had trades of their own before, and they were better as tradesmen than as tenants. I do not think these smaller tenants are often so well off as ordinary ploughmen. They consider themselves their own masters, which some of them think to be a great matter.

To Sir W. Gibson Craig.—In all bankruptcies, I believe it is the case that some creditors are worse off than others. I dare say there are always some creditors who have the precaution to get security, and who carry off the bulk of the means of the bankrupt, but we have not had very many cases of bankruptcy. The lime-burners in our district have not lost a great deal. They have now and then lost a little. They only run the risk of any other creditor choosing to give credit.

To Mr Fleming.—I do not know that the lime-burner has any idea of the risk he runs when he fixes his price. The lime-burner in general knows the district, and he must take his chance. I do not know that there would be a reduction in the price of lime and manures, if there was an alteration in the law of hypothec. Lime has risen very much in value since I commenced to farm. The iron-works consume an enormous amount of limestone now, that was not consumed at one time. You cannot purchase lime now at less than 9s. a ton, and I have purchased it at 4s. 6d. I see no other way for the proprietor securing himself than by being paid fore-rent, if he were deprived of hypothec. Suppose the tenant entered at Whitsunday, and a half-year's rent were payable at Martinmas, very little of the crop would be thrashed off. I have seen one man keeping his steam-mill going during harvest, but that is not general. *Q.* Supposing the rent is payable at Whitsunday or Lammas, and that the tenant is unable to pay his Whitsunday or Lammas half-year's rent, you would give the landlord a half-year's preference; but what would you do with regard to the remaining half of that crop, when the rent falls due at Martinmas?—*A.* Well, the other creditors would have a right to their share of that. *Q.* The crop could not possibly be reaped at Lammas, and supposing the tenant becomes bankrupt, would you allow the creditors to reap the crop for their own benefit and not allow the landlord to interfere?—*A.* I would give the landlord a right to six months' rent. For anything beyond, I would let him share with the other creditors.

To Mr Curror.—Our term of entry is at Martinmas to the ploughing, and at Whitsunday to the grass. That is the usual entry for land in Lanarkshire.

(21.) Mr JAMES STIRLING.

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To the Chairman.—I am tenant of the farm of Netherton, in the neighbourhood of Dunblane. The rent of that farm is from £250 to £300, partly a grain and partly a money rent. My father was a farmer in Craighead. His farm was about 90 acres, and the rent was 100 guineas. I succeeded my father in that farm. He left me a few hundred pounds besides the stocking of the farm. It is forty years since I succeeded my father. I have still my father's farm. I took another farm ten years ago, on the estate of Kippendavie, of 200 imperial acres. I took a third farm last year. It is nearly 400 acres, and the rent is £500. I commenced with a farm of £100 rent, and I am now paying in all nearly £900 rent. I have five of a family. The last farm that I took was for my eldest son. I mean the farm I took with the rent of £500. I stocked that farm for my eldest son, as well as having a stock of my own. I have found no inconvenience arising to me from the law of hypothec. I have rather found it to be beneficial. It prevents me laying out so much of my capital, by paying a forehanded rent, as I would have to do were it not for the law of hypothec; and of course I have the money to lay out on improvements on the farm. If there had been no law of hypothec, I could have fore-rented my own farm, and stocked and fore-rented my son's

farm, but it would have reduced my capital for the improvements on the farm. It would not have been so convenient for me to do as I have done under the law of hypothec. Commencing with a small capital, under the law of hypothec, I am now in the position I have stated. If the law of hypothec were abolished, I should think the landlord would require security or forehanded rent. I think it would not be convenient to the majority of the tenants in my neighbourhood to pay forehanded rent. My opinion is, that, were the law of hypothec abolished, without some countervailing security to the landlord, it would have a tendency to remove from moderately-sized farms a most respectable and industrious class of tenants. There is a large proportion of small farmers in my neighbourhood, who would very likely ultimately have to be removed were the law of hypothec abolished. I have never known of any person ever coming to a loss in my district on account of the law of hypothec. I know a great many farmers in my district who commenced with a small capital, and who have done as well as I have done—men who have raised themselves from being servants, and are now doing well in farms, who commenced with scarcely as much as would stock their farms, and who could not have taken the farms if they had been fore-rented. I should think that the cultivation of Scotland, so far as that class of tenants is concerned, would be seriously altered by a change of the law. I do not say that the present class of smaller tenants would be obliged to leave their farms if they were fore-rented; but it would ultimately come to that, I think. I know pretty well the circumstances of most of the farmers in my neighbourhood. Farmers' circumstances are generally well known in the neighbourhood. I certainly think that lime-burners and guano merchants could get sufficient information as to the means of the farmers in the district, by making reasonable inquiry. I have known no serious losses to guano merchants and lime-burners from trusting the farmers in my neighbourhood.

To Mr Hope.—I first commenced with a farm of 90 acres, and I then took a second, and then a third farm. On the second of these farms, I expended a good deal of money in permanent improvements, but not on the last farm. I only entered it at Martinmas. I think the sizes of the farms which were taken by the people with very small capital, to whom I referred as having done well, have generally been from 70 to perhaps 200 acres. I would not like to say that the present tenants could not fore-rent their land, if the law were abolished. I think that, generally speaking, those who have been for some time in their farms could fore-rent them; but I certainly think that ultimately it would come to their being removed. I would account for that in this way, that unless people are able to put their sons into farms, it would come to be that they would be put out. *Q.* What do you think would come of the farms, or who would occupy them, if these tenants would not do so?—*A.* Well, perhaps tenants of more capital. I could not say where they would come from. I do not see that the present tenants would get better bargains of their farms if they were fore-renting them. As far as my experience goes, I have not given a shilling more for the farms I have taken, on account of the law of hypothec. I do not think the farmers would get their farms cheaper, if they paid their rent beforehand. I see farms in the market that are still letting higher, but I do not say that they are taken by practical farmers. *Q.* There is always a difference in the price of any article you buy, if you pay ready money, instead of taking credit?—*A.* I do not know; I find no difference. Anything I buy in the manure way, I pay it all ready money, and I think I get it no cheaper than those who get credit.

To Mr Curror.—I took both farms on the Kippendavie estate privately. The farm was never valued. I just took it from the landlord himself. A great many are still offering for farms, when they are advertised. They are certainly offering more than the farms are worth, for I see very often tenants coming into the quarter in which I reside do not stop long in the farms. I think those strangers offer more than those in the district. I have known some of those strangers, being men of capital, who took farms, and did not do well with them. I do not know whether they spent all their money or not, but they left their farms in a short time. I think these farms were none the worse of the tenants. I know no case where tenants have been put out of their farms. I could not say whether it is on account of the law of hypothec that these men have offered more than they should have done. I have little doubt but that they would have been taken as tenants, even if there had been no law of hypothec. The men that took the

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farms had plenty of money, and I have little doubt that the landlord would have accepted of their offer. They were generally men of no experience.

To Sir W. Gibson Craig.—The men of capital who have taken farms in my neighbourhood were not bred to farming. I think they were taken only on account of their having a large capital. *Q.* Then, if landlords were to be obliged to take men of large capital, and were therefore driven into letting farms to men who have not been bred as farmers, do you think that would be for the advantage of farmers or landlords?—*A.* I do not think it would be an advantage to the farmer. I think it would be a disadvantage to agriculture generally.

To Mr Fleming.—I have always used a little artificial manures, but not to a great extent. I think the cost of the artificial manures, which I generally put on the land, is about one-fourth part of the rent on the average. I have not known any failures of farmers in my district. There may perhaps be exceptions, but not for a great many years. I should think the law might be modified a little, so far as it refers to the right which landlords have at present to follow grain which has been sold. I would not agree with the landlord following grain that has been sold, if it was a fair bargain—fairly sold and fairly carried away. I sell the produce of my farm in Stirling, at a stock or bulk market. I experience no difficulty at all from the law of hypothec. I should think that, in a district where there is no bulk market, the farmer must experience very considerable difficulty, unless his credit be good. I would be prepared to modify the law to the extent of depriving the landlord of the right to follow grain where the sale is in good faith; and I also think that the landlord ought not to be allowed to follow the grain more than twelve months after it is sold. *Q.* But if it is sold, you would not allow him to follow it at all?—*A.* Not if it is a fair sale—a fair bargain. *Q.* But, if unfairly sold, you would limit the landlord's right of following it to twelve months?—*A.* I should think so, because I do not think the landlord, as the tenant's friend, should allow him to fall back more than a twelvemonth.

To Sir W. Gibson Craig.—A great many of the farmers in my neighbourhood have put their sons into farms. If the sons are inclined, they generally put them into farms. They generally begin with just the stocking of the farm. A great many of them are doing well. Many of the farmers would not have been able to put their sons into farms, and stock them, if the farms had been fore-rented.

To Mr M'Lagan.—The term of entry to my farms is Martinmas, and the first rent is payable at Candlemas, the second year, about fifteen months after entry. If the law of hypothec had been abolished, and the landlords had fore-rented the farms, I would have required a whole year's rent before I entered upon the farm, and therefore I would have been less able to take a farm of the size which I did, or I could not have done the farm such justice. *Q.* Could you, if the law of hypothec had been repealed, have prospered as you have done, taking first one farm, and then other two afterwards for yourself and your son, if they had been fore-rented?—*A.* Well, of course I would not have had so much of my own capital to lay out on improvements. I don't know how it might eventually have turned out. The general size of the farms in my neighbourhood is from 70 to 200 acres. I know a great many tenants of the smallest farms in my neighbourhood, who have risen from the position of ordinary labourers. I know four or five, or perhaps six, who have risen from being servants. The land lets generally at about 30s. per Scotch acre, in my neighbourhood. I am not aware of the landlords having given any assistance to those labourers who took small farms. Perhaps they gave them a little assistance, by giving drains, and such permanent improvements. If there had been no law of hypothec, these men could certainly not have taken these farms. Those who have taken them have generally thriven well in them. If the law of hypothec were repealed, and the leases of these small farms were out, perhaps some of these tenants might be able to pay a fore-rent, because I consider that most of them have made a little money. They have thriven under the law of hypothec. There have been very few changes in my district. I know of no changes for a great number of years except two, and both of them were in one farm. I could not exactly say that the small number of changes shows that the landlords have exercised a wise discretion in the choice of their tenants. Of course there is a difference in landlords; some do take a higher rent if it is offered for a farm, and others do not. I should certainly say that the landlords look well to the circumstances of their

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tenants. I think they generally consider the capital and skill of offerers, and make inquiries about them, before they let their farms. I know two instances of strangers—men of capital—who failed some time after they had gone into the farm. I think these men were selected mainly for the high offer they made for the farm. I should think the landlords would not have given them the farm, even though they offered a high rent, unless they had found they were able to pay. *Q.* Suppose that you had a farm to let, and you had two tenants offering, one of them a man with abundance of capital to stock the farm and fore-rent it, but with very little skill; and the other, a man of skill, but with just sufficient capital to stock the farm well, and pay a back-rent; which of these would you select as tenant of your farm?—*A.* Well, I would certainly select the man who had skill, if he had capital to stock the farm and pay a back-rent, though he had not sufficient to pay fore-rent. I think it is the general opinion of the tenants in my district, so far as I have made inquiry, that the law of hypothec has wrought well. There may be exceptions, but that is the general opinion. I purchase a good deal of manures from the merchants in towns. I do not know whether they have a cash and a credit price. I pay all mine cash. I could not say positively, but I suspect that, when they know that the party to whom they sell is good, they do not charge a credit price for it, and perhaps they give a few months' credit. I should think they are aware of the existence of the law of hypothec, when they sell their manure to farmers. They must know that the landlord has a preferable claim. I do not think they have any grounds for complaint, if they don't get their payment, for they knew the law was in existence when they sold the manures. There is a very great deal of competition amongst the manure merchants; and they push that competition rather too far, I think, without making reasonable inquiries into the circumstances of the parties with whom they are dealing.

To Mr Hope.—There have been no failures, or very few, in my neighbourhood. *Q.* So that the guano merchants have very little difficulty, and need not be blamed if they push their trade amongst such thriving people?—*A.* I do not think they lose anything in my quarter. If I were a landlord, I think I would select men of skill for my tenants, even in preference to men of larger capital. I think I would do that, even if the law of hypothec were abolished. I would have more trust in a man of skill, without any more capital than would stock the farm, than in a man of large capital and no skill. It would take a few hundred pounds to stock a farm of 70 Scotch acres. It depends entirely on the class of stock put on the farm. I should think that £500 would do it very well. I do not know exactly whether £300 would do it. The rent of a farm of 70 acres is 100 guineas. The man that has £500, would just require to have £600 to take a similar farm, and pay a forehanded rent.

To Mr Fleming.—*Q.* What do you calculate is necessary for stocking a farm, on the average, in your district?—*A.* Well, I could not say exactly; some people would stock a farm cheaper than others. My own opinion is something like £7 an acre.

To Mr Curror.—I mentioned that two tenants had left one farm during the last ten years. The landlord lost nothing in these cases, and no other person lost that I am aware of. I am not prepared to say that the men lost all their capital in the farm.

(22.) Mr ARCHIBALD PATERSON.

Archibald Paterson.

To Sir W. Gibson Craig.—I am tenant of the farm of Meadowfield, near Corstorphine. I am also Assessor of the county of Mid-Lothian. The size of Meadowfield is about 220 imperial acres. It is a grain rent. It runs from £700 to £900. I had a farm in Peeblesshire before I came to Meadowfield. It was not a very large farm. The rent was under £300. I have been a farmer since 1825, nearly 40 years. I have had great experience, and considerable knowledge of the system of farming, both in Peeblesshire and in Mid-Lothian. I have not suffered any disadvantage in either of these counties from the law of hypothec. I cannot say that it is generally injurious to the interests of the farming community. I should think it is a very great convenience to many tenants. I do not see any urgent reason why the law of hypothec should be abolished and repealed. I think the landlord ought to have some security for his rent. If the law of

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hypothec were abolished, I do not see that the landlord would have any security, unless he were to get the rents prepaid. I think that would be a very good security. I think that would affect a large class of the tenantry very injuriously, at least it would put them to very great inconvenience. They would require more capital by a year's rent. They get about a year's rent credit just now, and it would require a year's rent more capital to enable a man to take the same kind of farm. A great many of the tenantry in Scotland would not be able to stock and improve their farms, and pay fore-rent. It would put them to great inconvenience, especially at the present time. They would be obliged to give up their farms altogether, and take smaller farms. I should think that a very considerable proportion of the tenantry now holding farms would require to do so, as far as I can judge. I do not know that there would be much difference in the numbers who would require to do so in the different districts. I think it might affect the districts where farms are large, as well as where they are small. I think it would produce a great change in regard to the persons now holding farms. It would not affect the capitalist, of course; but it would place in very untoward circumstances, parties who merely had enough to stock their farms, and go on. I think a great number of the tenantry of Scotland have entered on their farms with only sufficient capital to stock them, and reasonably improve them—some of them with rather too little. These men might have taken smaller farms than they have just now, if they were fore-rented, and that would certainly have affected their interests very much. I think the effect of fore-renting the farms would be to lower the present status of a large number of persons holding farms. I cannot say that there is any very serious inconvenience to any parties, from the law of hypothec. All parties dealing with farmers know very well that the landlord has a hypothec over the stock. I do not think that farmers would get their manures cheaper, if the law of hypothec were abolished. The competition is so keen just now, that I do not think manure merchants could sell them much cheaper. I understand that now and then the manure merchants have had pretty serious losses from the preference of the landlord over the stock of the farm; but these losses have not been sufficient to deter the guano merchants from dealing with and trusting tenants as they did before. They knew the landlords had a hypothec, and they ought to have considered that in dealing with farmers. They had the remedy in their own hands—to refuse to deal with a certain class of farmers. I think that the present tenants would be obliged, if they were fore-rented, to take smaller farms than they now hold. I do not think that many of them would not be able to take farms, because I have an idea that perhaps the very smallest farmers would not suffer so much as even some of the larger farmers. These larger farmers have the small farms to fall back upon. If it affected very small farmers, of course they would be driven out of the trade altogether, as a profession; but I do not think it would affect them so much as the larger farmers. If the larger farmers were obliged to take smaller farms, there would be competition between the two parties, and some of them would be squeezed out. I really do not see sufficient reason to abolish the law of hypothec. I do not see any very great hardship to any party in consequence of its existence. I think there ought to be some modification of the law. The terms of payment should be made shorter than at present. I think if a tenant is entering at Martinmas, he should pay rent at the following Martinmas, and the Whitsunday after that; and if some means could be devised whereby the proprietor had not a hypothec over more than one year's rent, I think it would be a good thing; but there is a difficulty about that. That is the extent to which I would go. I think I would give the landlord a hypothec for one year's rent, over the crop and stock of one year.

To Mr Hope.—I would not approve of continuing the present right of following grain. That is one of the modifications I would like to see made of the law. I would have no objections to farmers selling their sheep or cattle at home. *Q.* If farms were put under the same rule as house property, that the rents should be paid every six months after occupation commences, and the law were continued as it is for all the rest, except that the landlord would lose his right over the goods if he did not sequestrate at the proper time, would that be a modification that you would reckon prejudicial to the interests of the tenants?—*A.* I think that would be rather short credit. If you were to have the tenant paying his first term at Whitsunday, when he really had realized nothing, that would be a great incon-

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venience to many parties. If the law were modified or abolished, I think that existing interests ought to be protected, although in other cases they sometimes were not protected. *Q.* If that were done, that would bring the law gradually into operation, and there might not be the same pressure upon any particular class, if it took 19 years to go through all, than if it was all at once to come into operation?—*A.* Well, I do not see that would make very much difference. A tenant at the end of his lease, if he had just barely wherewithal to stock just now, would require still the additional capital. There have been very great improvements within the last 30 years, from draining and artificial manures. There has been no doubt a great change in agriculture in that respect. The land has been very much improved, but I question if the tenants are very much richer often. There may be cases where persons bring up a large family, or where a tenant may have misfortunes among cattle; or he may have had the misfortune to take a farm at too high a rent. I think that state of matters to be very general. As farms have been let for the last ten years, I don't think we can expect very much money to be made in farming. I do not say that the law of hypothec has induced these high rents. I think that other things have had more to do with it than the law of hypothec. We know that there was a kind of agricultural literature. I think that had the effect of inducing many amateurs to become farmers. I refer to such writings as those of Mr Caird. Many people were brought from other professions to farming, after Mr Caird's celebrated pamphlet, 'High Farming a Substitute for Protection,' on account of the flaming accounts he gave of the Auchness farm. I know that I was asked to go about with people to take farms about that time, and I discovered that that was the cause of their doing it; and, when I sent them the answers to that pamphlet, they gave up thoughts of it after they saw both sides of the question. But I believe that many were induced to go into farming on account of writings of that kind. And then we had, besides that, two or three prosperous years for farmers. I think that raised the price of land very much, especially in East Lothian, where so much money was made by some farmers, and by farmers generally, on potatoes. I think that raised the rent of land generally far more than the law of hypothec. If it was necessary to fore-rent farms, I think that would reduce the competition that has been experienced within the last ten years; but whether that would be desirable in a free-trade country like this, I do not know. *Q.* Do you think it is reasonable that a proprietor should be saved, by the law of hypothec, from the necessity of care in his dealing with tenants, while every other sort of merchant is bound to consider whom he is dealing with?—*A.* Well, I think the transaction a proprietor enters into with a tenant can scarcely be compared with an ordinary mercantile transaction. It is a transaction for 19 years, and the person may be a very good man just now, but ten years after this, the tenant may not be the same individual, or he may be the same individual in very different circumstances; and I think the landlord should have security different from a person who is beginning a transaction that is to be ended in two or three months. My main objection to the alteration of the law is, that it would compel fore-renting, which I think would be a very great hardship.

To Sir W. Gibson Craig.—I think there is a little difference between the security of the landlord at present and that which a bank takes. Of course, any person getting a cash-credit from a bank must get collateral security; but the proprietor has a better security in his hypothec over the crop. There is no doubt that the bank lends the capital to the farmer to make a profit out of it, and the farmer is obliged to get security that the money is to be repaid to the bank. I think the proprietor has a better security than any collateral security, unless the bank gets security over heritable property. I think the one has a better security than the other, but the bank is getting a security which the proprietor could not get for 19 years. *Q.* Exactly; and therefore the landlord is obliged to get the only security he can get; but it is the same in principle as in the other case?—*A.* Yes; he is getting the only security that he could expect to get. Nobody would become security for a tenant for 19 years. The bank never gives a cash-credit except on heritable security, or collateral security.

To Mr Curror.—*Q.* Do you not think that this law of hypothec is the means of keeping land rented at a higher rate than it would otherwise be, owing to the full and ample security that the landlord has?—*A.* Well, I do not think the difference would be very appreciable. I think the man with a small capital

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will be just as careful that he does not take a high-rented farm, as the man with a large one. It might lessen competition; but I think it is a fair competition; for capitalists, and those who would not have capital, but who have the loan of the year's rent from the landlord, are just competing upon the same terms. Those who have £10,000 coming to offer for a farm, are just competing on the same terms as perhaps the man who has only barely sufficient to take the farm; and I have no doubt that the man with £1000 or £2000 will be just as careful as the large capitalist with his £10,000. I do not think we are entitled to assume that he will give more for his land than the capitalist. He would be an unwise man if he did. There is no doubt that, under the law of hypothec, the landlords are safer with an indifferent man than they would otherwise be; and perhaps it may make some landlords slack, and take rather too much rent, and look more to the security than to the tenant. I would allow the landlord the benefit after the rent is due, just as short a while as possible. The terms I have mentioned are, I think, fair terms. I think I would allow the landlord's right of hypothec to continue about 40 days after the date when payment of the last rent is due at Whitsunday. I think the continuance of the hypothec should be shortened.

To Mr Fleming.—I think that the terms of payment should be Martinmas and Whitsunday. *Q.* I presume you are aware that the legal terms are Whitsunday and Martinmas; that the rent of crop 1864, in the absence of special stipulation, would be payable at Whitsunday 1864 and Martinmas 1864?—*A.* I never knew a case where these were the terms of payment. I am speaking of what I know to be contracted for. I am quite aware that no alteration of the law is necessary to enable landlord and tenant to arrange the terms of payment, as they may think expedient. There are practical difficulties in the way of reducing the landlord's preference to one year's rent. For instance, should the rent not be paid at Whitsunday, then the next crop is put in at Whitsunday, and the landlord has a security over the stocking upon the farm for the past year's rent at that time. And therefore I see a difficulty in getting rid of that in any way, and at the same time giving the landlord proper security for his rent. That is where the landlord chooses to give his tenant the extended periods for paying the rents, which, I think, the tenants ought in fairness to have. *Q.* By the existing Bankrupt Act, it is provided that a creditor, holding a security over a heritable estate of the debtor, shall be deprived of his full right to do what the lawyers call, poind the ground—that is, to secure a preference over the moveables belonging to his debtor, which are situated upon the heritable property—and his preference is limited to three half-years' interest. Do you see any practical difficulty in dealing with the law of hypothec in the same way, and providing that the landlord's right of hypothec, in competition with the general creditor, should be limited to 18 months, one year, or half a year?—*A.* I see no difficulty in limiting it to three half-years, because I think the landlord ought not to be entitled to allow the rent to run into arrear, and have a preference. He ought to see that his Martinmas rent is paid within 40 days after Martinmas, and at Whitsunday he should only have a preference for the current year's rent. It would meet my view if the landlord were to get a preference for the current crop, and for the immediately preceding half-year. If the law of hypothec were abolished, I do not know that competition for farms would be diminished. I think it must now diminish to a certain extent. I think that the cause of the competition was the influx of parties from other professions some time ago. I think that has ceased now in a great measure. They have found out their mistake. I think that the prosperity, which the farmers had for two or three years, is another cause of the competition; and I think that has in some measure ceased, and the competition is not now so very keen as it was. I think that arable farms will not give the same rent now as they would have done two or three years ago. That is in my experience. I know a number who have got down their farms within that period. I think that is attributable to the two or three bad seasons which have been experienced, and to the fact that, owing to the keenness of the competition, tenants were induced to give too high rents. With the present low prices the farms were too high rented, and tenants are beginning to feel that now. I think that both undue competition and the fall in prices have had to do with diminishing the value of land. I think there was undue competition for some time. I do not know that the manure merchant has any

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other means but inquiry, for ascertaining the probable position in which the tenant with whom he is dealing stands with his landlord. He knows that the proprietor has a preference to the extent of two years' rent just now, and, knowing that, he must take the consequences. It would be a very safe thing for the manure merchant invariably to assume that the tenant is in arrear to the extent of two years. I do not know that business could be conducted on that principle; competition is very great there too, I know. I dare say that, in fixing the prices of some kinds of manures, allowance is made for the risk the merchant runs; but in Peruvian guano the profits are very small, and I don't know that it can be done with that kind of manure. I do not anticipate a reduction in the price of manures if the law were changed, because we have ready money and credit prices at present, and the merchants are pressing people with money to take guano out of the ship, not so much to get rid of the guano, as to get the money. I think that the publication of sequestration would be a proper thing. It would put third parties on their guard. That is one of the modifications which I would propose.

To Mr M'Lagan.—I mentioned that it would be very inconvenient for a great number of tenants to make the farms fore-rented; and I can see no other security which the landlord could get, were the law of hypothec repealed. I think it would be very inconvenient, therefore, to repeal the law at the present time. I do not see that a tenant, on a 19 years' lease, could get security to pay his rent in the same way as other parties whose transactions are for a shorter period. I have no doubt that there has been a great increase of money in the country, made from other professions besides farming, since 1850. I have no doubt that the holders of money, who were fond of a country life, have offered for farms, and that that has been the means of raising the rents. I think these persons have been induced to make offers for farms, as I have said, by certain writings on the subject. I am much employed as a land-valuator. In my intercourse with proprietors, and the factors and agents of proprietors, I have not found that they show a want of caution in the selection of their tenants. I find that they make proper inquiries as to the means of their tenants. I have seen sometimes an unwillingness on the part of proprietors to turn out an old tenant; but, if a farm was put to competition, I think they have generally exercised due caution in trying to select the best offerer they could find, and the rent has not always been the leading object. But when an old tenant has got into difficulties, and has not been so fortunate as some think every tenant ought to be, I have seen a reluctance on the part of the proprietor to turn him out, and he has stretched a point to renew the lease with the old tenant. There has not generally been of late years an increase in the means of the farmers of Scotland, from what I can learn, especially for the last four or five years. The present system of farming, no doubt, requires a larger amount of capital than was required some years ago. When I spoke of the means of tenants, I spoke of their means in proportion to what is required. I meant to say, that the tenants are not now more able to do certain things than they were before. Absolutely there has been a larger amount of capital among tenants. I do not think that, in this part of the country, tenants generally are inclined to live beyond their means. I am aware that most farmers, during a 19 years' lease, if they are married and have a family, have generally educated their children well, and brought them up to some profession, or set them up in the world; and though, at the end of their leases, they may have no more ready money, still the money which they have spent on the education of their children, and setting them up in the world, has all been made on the farm. I think the repeal of the law of hypothec would affect most injuriously the tenants who have perhaps only wherewith to stock their farms properly and go on at present. I do not think it would affect injuriously, but rather be in favour of capitalists. I think it is very likely that the effect of the repeal of the law would be to throw out the smallest class of tenants altogether, and to increase the competition for farms of a certain size. There is no doubt that many industrious tenants have entered upon farms, and have thriven well upon them, simply from the indulgence granted to them by the landlord, relying upon his right of hypothec. I have no hesitation in saying, that a great many persons have got on very well, who, but for the law of hypothec, would not have taken the farms that they did take. I could not just say that they would not have been in the position of farmers, if there had been no law of hypothec; but I know a great many wealthy farmers who have risen under the

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law of hypothec, with the indulgence that it gave them in being back-rented. I recommend a modification of the law, and particularly that part of it under which the landlord has the power of following the crop of the farm. I am aware that crop sold in the public market is reckoned as sold *bonâ fide*, and cannot be followed. There is a very great deal of grain sold in a stock market such as Edinburgh, that could be followed by the landlord, if the grain must be sold in bulk in the market. I have no doubt that a third of the grain sold in the Edinburgh market is sold when it is at the railway station, or lying in the farmer's barn. I think it advisable, therefore, that this part of the law should be reconsidered; but, along with that modification, I think something would require to be devised to prevent a collusive sale. What I mean is, that it would not do to repeal that part of the law entirely, so that it would be in the power of a tenant to get some one to come and buy his whole stack-yard, and call that a *bonâ fide* sale. I would say that, so long as the crop is on the ground, the landlord should still have his right over the crop; but if it could be proved that, even in a sale, when it was off the ground, there was any fraud, I would allow the landlord to follow it.

To Mr Hope.—*Q.* I think you said that you considered the abrogation of the law of hypothec would interfere with free-trade in letting land?—*A.* Well, I understood you to infer that there is an undue competition in consequence of the law of hypothec, which raised the price of land; and I said, I thought it not very fair, in a country like this, to try to put down that competition. Both parties have the same advantages from the law of hypothec, and they are competing upon the same terms. The law of hypothec is not something like offering a bounty on competition. If the two parties are acting in a rational and judicious manner, I do not think it is offering any bounty. A person takes that into account when he offers his rent; and if the landlord allows him a year's rent, to help him to stock his farm, I think he is quite entitled to do so.

To Sir W. Gibson Craig.—There is competition in all trades. It might be very convenient, if great manufacturers and large farmers could drive out of the market those men of small capital who are competing with them, but I do not think it would be very generous.

To Mr Curror.—I have heard there is a case in East Lothian, where the guano merchant and tradesmen suffered, while the landlord was secured in everything; but I cannot say that I know of any case of that kind. Very few of these cases have occurred for some time.

To Mr Fleming.—My artificial manures cost about £200 per annum, and all my manure costs about £600, or very nearly the amount of my rent, besides the expense of carting about 1000 carts of it from Edinburgh.

To Mr Hope.—I do not suppose I buy more than £50 worth of feeding-stuffs. I don't keep many cattle.

To Sir W. Gibson Craig.—The expense of farming, in buying artificial manures, has much increased lately. If a tenant requires a large capital, it is more convenient to him to have the command of it all, and not to be obliged to pay forerent. The greater the extent of the farm, the more he requires a command of capital.

To Mr Fleming.—I do not think any manure merchant will give credit for twelve months. If they give more than three months' or two months' credit, they must have a bill and security for the whole. I think the law of hypothec is favourable to landlord and tenant, except large capitalists, who don't require it. I think the great proportion of the tenantry on arable farms in Scotland would suffer from the repeal of the law. I speak more especially of this district. I do not think that third parties suffer any injury, from which they cannot protect themselves by reasonable inquiry.

(23.) Mr JOHN DAWSON.

John Dawson.

To the Chairman.—I am at present Provost of Linlithgow. I am a distiller, along with my brother. I have pretty extensive dealings in grain—to the extent of 8000 or 10,000 qrs. a year, in barley for malting. We sometimes buy in Edinburgh, but very little. When we buy in Edinburgh, it is principally in the

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stock market; but we buy principally in the county of Linlithgow. We very seldom use foreign grain, and never do so when we can get home grain. We have been in the trade 47 years; eight or ten of these as brewers, and then as distillers. In our large dealings with the farmers, we were aware that the law of hypothec existed; but it has never come into operation so far as we knew, or so slightly that we never suffered by it; consequently, we never thought much about it, though we were always aware we might suffer loss by it. In point of fact, there was only one occasion where a tenant, with whom we had been dealing, happened to be under sequestration, and the landlord's law-agent asked us for a note of the quantities of grain which we had got delivered into our premises, and paid for, and we gave it to him, but we heard no more of it. I believe my brother wrote a letter, intimating that he thought it would be a strange thing to cause us to repeat payment, and that we would perhaps resist payment; but no claim was actually made against us.

To Sir W. Gibson Craig.—That is the only case we ever had.

To the Chairman.—I do not know that I have personally any desire that there should be any change in the law. It appears to be a bad law. It is not suited for a mercantile country at all. I think it works to protect the landlord at the expense of the trader, but there has been so little attention paid to the law, that it is only a thing held over the heads of traders in grain and manure, and other such things; but I believe, so far as we can speak for ourselves, it has given us very little thought. It is a bad law in theory, but in practice we have not ourselves had any bad results from it. I have heard of cases of hardship to others, but I cannot recollect the cases. I think that, if a distiller, or a brewer, or any trafficker, gets into his possession grain, or the produce of any farm, and gets it fairly delivered into his premises, and pays for it, it is a monstrous hardship to ask him to pay it over again; it is perfectly absurd—little better than robbery. I decidedly object to that part of the law which enables the landlord to follow grain after it has been sold. I am aware that at present, if the grain is sold in open market in bulk, there is no power to follow it. I think it would be an improvement to extend that rule to grain sold by sample. I would say that, so long as the grain lay on the farm, even if it was purchased and paid for, the landlord ought to have a claim over it for his rent. I think, when the grain is fairly delivered into the trader's premises, the power of hypothec should cease. That is the only change in the law applicable to our case which is required; but there may be other cases of hardship. For instance, it is a hardship to a dealer in manure, or a maker of drain-tiles, that he should lose his recourse. My impression is, that it would be quite fair that the law of hypothec should not take effect till a notour or notorious sequestration had taken place. All transactions before such sequestration should not come under the law of hypothec; but, after sequestration is fairly taken out, then it is a man's own blame if he deals with the tenant—if he takes grain or furnishes him with manure or anything else; but it is a hard case, where traders deal with a man, believing him to be solvent, and find out, perhaps six months afterwards, that there was a sleeping sequestration. I think that sequestrations should be made public; and that all grain bought either in bulk or by sample, delivered, and paid for, should not come under the law of hypothec. These are the two changes I would suggest. There may be others required, but these are the only two that occur to me.

To Mr M'Lagan.—It is a difficult matter to say whether I would care to see the law abolished entirely, if I got the modifications I have suggested. There are so many other hypothecs, or preferences, besides that upon land. There is a hypothec, in the case of urban property and dwelling-houses, upon the furniture. I would think that the law might bring the two descriptions of property nearly into the same position. I think that the law of hypothec should extend only to implements and household furniture on the farm, in the same way as on household furniture in dwelling-houses. That may be a sort of compromise. I approve generally of the principle of hypothec, because there are a great many different kinds of securities or hypothecs; and I think, if you commence interfering with the law of the one, you must take in others, to do justice to all descriptions of property.

To the Chairman.—I do not know if it would do to abolish the hypothec in the case of urban property, although it is a hard case that, when an upholsterer furnishes a house, the moment he puts in the furniture it goes to the landlord, if the rent should not be paid. I think that the hypothec on urban property,

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and the hypothec on land, should be assimilated, and that, if you abolish the one, you ought to abolish the other. I think that, if the urban hypothec is restricted to the furniture in dwelling-houses, the landed proprietor should be satisfied with a hypothec over the furniture of the tenant's dwelling-houses, and over his agricultural implements, letting him sell his grain as he pleases. I think the urban hypothec, and the hypothec on land, should stand or fall together.

To Mr Fleming.—I think the difference between the hypothec in the case of urban property, and the hypothec in the case of land is this, that the furniture in a house in Edinburgh may be taken for either six months' rent or a whole year's rent; but I understand that, in exercising the hypothec on land, the landlord can go back not only on the past year, but on two preceding years.

To Sir W. Gibson Craig.—We have been 47 years dealing largely with farmers, and have suffered no direct loss from the law of hypothec.

Wednesday, January 4, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair*

RIGHT HON. SIR W. GIBSON CRAIG.	MR HOPE
HON. MR CARNEGIE.	MR M'LAGAN.
MR FLEMING.	MR CURROR.

(24.) MR ANDREW SHARP.

Andrew Sharp.

To the Chairman.—I am tenant of Blueton, in the parish of Dunblane, Perthshire. My farm is 200 Scotch acres, or about 250 imperial acres. I entered with £120 of rent, and I now pay £260. My entry was 15 years ago. The length of my lease is 19 years. My rent rose gradually with the improvements on the farm. The landlord laid out the money for drainage. I have been engaged in the practice of agriculture about 45 years, always in Perthshire, and mostly in the eastern district of Perthshire. I have experienced no inconvenience from the law of hypothec. I think I have experienced some advantage from the law. I commenced business with my staff in my hand. I was a long time a servant, and collected a little money in that way, and then I took a farm; and I think that, on entering the farm, I had an advantage by the law of hypothec, on account of the postponed term of payment of the rent. I entered at Martinmas, and the first half-year's rent was payable in the year following the putting in of the crop, on the 1st of February. Had it not been for the law of hypothec, I would not have expected the landlord to give me such a postponed period of rent, especially to a stranger, as I was to him at that time. I have reclaimed most of my land out of heather, and I have expended money on lime and guano and on permanent improvements. I get lime by the railway, and I pay credit price generally for it. I get credit for my lime for a month or six weeks—never more than six weeks. I sometimes get six months' credit for guano. There are a good many tenants in the same position as myself in my neighbourhood. They occupy small farms like myself—some less and some larger; and they have raised themselves to their present position. I think that the law of hypothec is an advantage to that class of tenants, by enabling the landlords to give them an indulgence. I do not think it would be possible for such a class of tenants to pay rent before they reaped the crop. I never knew either lime or guano merchants suffer to a great extent in my neighbourhood from the failure of tenants. There have been very few sequestrations in my neighbourhood since I came into the district. Most of the small tenants, of whom I have spoken, are men who have improved the land, and reclaimed it in

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the way I do. Their rents generally rise gradually, in the same way as my own has done. The land is improved in the district, either by Government money, or by the proprietor. The rent rises so much a year, according to the expenses laid out in the improvement of the land. The additional rent I pay is a per-centage on the money the landlord lays out, either from his own means, or by Government money. I would be decidedly opposed to the law of hypothec being abolished.

To Mr Fleming.—Only one failure has occurred within the last few years in my district. The person who failed was not a practical farmer. He was a coal merchant, in company with another, and it was there that the whole debts were contracted that brought the farmer down. There was no money lost by general creditors in that case. His debts were all owing to his business, with the exception of the rent. That is the only case of failure that I know of in the district.

To the Chairman.—I do not know of any failure, except that one, having occurred between Perth and Stirling; and I am acquainted with the whole district—a distance of 30 miles.

To Mr Fleming.—Exclusive of my farm manure, I require generally from six to eight tons of artificial manure, and that will cost close upon £100.

To Mr Hope.—I am offered four or six months' credit for guano. Five per cent. is all the offer I have for cash. I get a shilling a pound off, if I pay cash, instead of taking four months' credit. I never farmed for myself before I came to Blueton. I think it would require about £1000 to stock my farm of 200 Scotch acres. The rent I started with was £120. *Q.* If you had waited other two years before you took the farm, it appears that the interest of the money required for stocking would pay the year's rent, if you had been called upon to fore-rent it?—*A.* At 5 per cent. it would require something more; but I cannot get 5 per cent. at the bank.

To Mr Carnegie.—It is in my lease, that, whatever money the landlord lays out on permanent improvements, I pay 6½ per cent. upon it.

To Mr Fleming.—I sell my grain in the market in Stirling. That is a bulk market; and I have never experienced any difficulty in dealing with a buyer of grain, from the law of hypothec. I would not approve of the landlord following grain which has been sold, paid for, and delivered, provided it was not sold in a clandestine way. If it was sold honestly, I would think it hard for the landlord to have power to follow it. If a merchant were to supply a farmer with a hundred tons of lime, and had only laid it on the land, or if a tile merchant had sold me a quantity of tiles, and these had been properly put in, or were lying on the surface, I think it would be hard to say that the landlord should take the whole. I could not suggest any modification to meet that difficulty. I would not like to restrict the landlord's right to a preference for one year's rent. I would not approve of the limitation of the landlord's right to one year's rent, to meet the injury that might arise to the lime merchant and the seed merchant and tile merchant. I think that, in certain circumstances, the lime and seed merchants may suffer from the operation of the law; but these are the only individuals, I think, that suffer from it. I am not prepared to suggest any amendment of the law to meet that injustice. I leave that to wiser men.

To the Chairman.—I think the lime and seed merchants have sufficient opportunities of ascertaining the position of tenants before they deal with them. Any man may know the circumstances of tenants if he makes inquiry. I think it is quite easy to ascertain whether a man is in circumstances that entitle him to credit or not. Before I took a farm, I was foreman to a gentleman in Perthshire. I should say that, if the price of grain were to keep up, I would be better a farmer than a foreman.

To Mr Fleming.—When a farm is to let in my district, there is pretty keen competition for it, chiefly among farmers, though some others come in sometimes. I think the land, generally speaking, is too high rented in my district. That is caused by too keen a competition. There are exceptions of persons from other professions coming in to compete.

To the Chairman.—The other men who come in to compete have had nothing to do with agriculture.

To Mr Fleming.—The outsiders offer the highest rents, and I have known a good many of them leave their farms, although they have not made a failure.

To the Chairman.—I think that has arisen a good deal from want of skill.

Andrew Sharp.

To Sir W. Gibson Craig.—These outsiders have generally plenty of capital to begin with.

To Mr Fleming.—I think that generally the landlords in my district make careful inquiry before letting their farms.

(25.) Mr WILLIAM SCOTT.

William Scott.

To the Chairman.—I am tenant of the farms of Timpendean, Broombacks, Shaw, and Spylaw, all in the county of Roxburgh. Two of these are pasture farms, and two arable. They extend to about 3300 imperial acres, and the aggregate rent is £3700 or £3800. I have been engaged for 23 years in the practice of agriculture. To the pastoral farms, my entry is entirely at Whitsunday, and to the others at Whitsunday and separation of crop. My first rent is payable for one of the arable farms at Lammas twelvemonth; for another, at Martinmas twelvemonth; and for a portion of another, at Whitsunday, a year after entry. The rent of the pastoral farms is payable at Martinmas after entry. The rents of a large proportion of arable farms in my district are payable at Candlemas and Whitsunday after entry. Some don't pay for a year and a half, but the general rule in Roxburghshire is to pay the rent before the crop is reaped. I think the term of entry which I have mentioned is the best. If the tenant has capital, the sooner his rent is paid the better. I think Whitsunday or Lammas would be the best term of payment, even for arable farms; of course, for pastoral farms, Martinmas or Candlemas is, I should think, the proper term. My reason for preferring these terms of payment is, that they would secure the tenant being a man of capital. *Q.* Have you personally experienced any inconvenience from the law of hypothec?—*A.* Yes. The very first farm my father had he lost by a tenant without capital coming in when the lease was out. I think it was relying on the law of hypothec that the landlord took him; but he only had the farm for two years; he was obliged to give it up. This took place 26 or 27 years ago, and, though not directly an injury to me, it was so to my father and to his family. *Q.* Since then have you personally experienced any inconvenience from the law? —*A.* Yes. I have offered for farms in Roxburghshire, and other persons have been preferred who had not capital, and who only kept the farms for a year or two. I also object to the law, because I think it is unfair to the public with whom the farmer deals. I think the public should be placed in the same position as the landlord. I do not see any distinction between a landlord letting a farm for 19 years, and a manure merchant who may have only one transaction with the farmer. The landlord is only placing the interest of his capital at stake, whereas the manure merchant and others are placing their capital at stake with the tenant. I don't think it would be easy for the manure merchant and other dealers to secure themselves by ready-money payments. I have known numerous instances of grocers, and other tradesmen of that class, having suffered from the law of hypothec. I know an estate in Roxburghshire on which every farmer has failed within my recollection, and taken in the public. There are at least six farms on that estate, and these failures have extended over 20 years. I know of many other similar cases. I don't think more than half a dozen of these cases occur in the district in a year,—scarcely that number, on the average. In one case the landlord did not get his full rent, but he let the farm considerably higher afterwards, and in that case the other creditors got nothing at all. I don't think landlords have generally suffered by the farms being in bad condition on the failure of tenants. On the estate I have referred to, the landlord has universally got a considerable rise of rent after all these failures. The tenants farmed the land very fairly. One of the cases was five or six years ago, two of them since, and the others previously. The tenants who came in after the failures are still on the farms. They pay higher rents, but they got the benefit of the liming and draining which the former tenants had done.

To Sir W. Gibson Craig.—*Q.* Suppose a tenant has not sufficient capital, and gets money from a bank instead of getting it from his landlord, as at present, and the bank has security, should that security not be available against the general public?—*A.* No. I think there should be no preferable security over a tenant's effects. The tenant can get security from his friends, or he could give security over other property than he has on the farm, because many a tenant has other property. If he has capital and skill for his business, I have no fear of his

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getting money. In many cases I think money is lent without security. I have lent it myself without security. *Q.* Suppose a man has paid £10,000 for a farm as an investment, and he lets it to a tenant for 19 years, is he to have no security for getting the interest of that capital?—*A.* He has always the capital there. I don't think he should have any preferable security for the interest, over any other person. If he takes a tenant with sufficient capital, I don't think he requires further security. It depends on the system of farming what would be considered sufficient capital. What may be sufficient in the Lothians would perhaps not be half of what was necessary in Roxburghshire. If the tenant did not pay his fore-rent at Martinmas, the landlord must just take steps to get it, if he doubts his chance of getting it within a month or two. If he doubts the stability of his tenant, he must sequestrate. *Q.* Taking the general farming population of Scotland, do you think there is a large proportion of farmers who have sufficient capital?—*A.* Yes. I think there is a large proportion of them in that position over the whole of Scotland. It does not follow that they have made their money by farming; they may have had it when they began to farm. *Q.* But it is your opinion that, all over Scotland, a large proportion of the tenants have abundant capital to fore-rent their farms?—*A.* I don't know exactly what you mean by a large proportion, but I think more than one-half of them could do it.

To the Chairman.—It requires more capital to farm in Roxburghshire than in the Lothians, because we keep a much larger stock of sheep and cattle than the farmers of the Lothians do. I don't think we lay out as much on manure, in proportion to our rents, as they do in the Lothians, but we raise more manure on our farms. I would abolish the law of hypothec, even as to existing leases. That would be no more unfair than the abolition of the Corn-laws was, or than the abolition of tolls would be.

To Mr Carnegie.—I think agricultural sequestrations should be made public.

To Mr Hope.—I think, as to the majority of farms in Roxburghshire entering at Whitsunday, the first half-year's rent is payable at Candlemas, though there are large exceptions to the rule. On most purely arable farms, the tenant enters at Whitsunday to two-thirds of grass, but in many cases to one-fourth.

To Mr Curror.—Under the system of high farming, I think landlords have a very great security in the amount which tenants lay out on draining and improving. A good tenant at once commences to improve the farm by liming and draining; and, after the first year, there is a very large amount of capital on that farm, which the landlord has the benefit of, and which no other creditor can get a share of. After the first year, there would be more than a year's rent on the farm in that way.

To Mr Fleming.—I know that, in the north of Scotland, the arable farms are smaller than in the south. I think a good proportion of the smaller farmers would be able to pay forehand rents. A good few would not; but it does not follow that because the farms are small, the tenants' capital is insufficient. I think the effect of the abolition of the law of hypothec would be to improve the farming. There would be a much better class of tenants than many who now offer for farms and get them. I think it would lower the rents a little at first, though I have no doubt they would afterwards come up to the same amount. A number of the present successful offerers for farms have neither skill nor capital, and a man with both has no chance. I have known landlords take such men. I don't know whether they were aware that they had neither capital nor skill, but they ought to have known if they did not. I think it is quite easy for a landlord to ascertain whether a tenant has skill and capital. I have known tenants get farms, who ought to have been bankrupt at the time they were taking them. If the law were abolished, tenants with capital would be sure that, in offering for farms, they were competing on equal terms, and not against men that had nothing to lose. At present it is a mere speculation with men that have no capital,—a sort of 'heads I win, tails you lose.' If a professional farmer merely offered according to the value of the land at the present time, he might as well keep his offer in his pocket. The farm may be let by sealed offers, but, if he is in the district, he will learn who are looking at it, and the effect of the present system is to make him offer more than he would otherwise do. That is voluntary in one sense, but it is compulsory in another. The abolition of the law would lower rents on those estates on which it has been the habit to take tenants

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without capital, because there they have got up to a fictitious height. Men without capital might continue to offer, but we would know that they would not be taken, because the landlord would not run the risk. I think that, in Roxburghshire, the terms of payment of rent would be changed in very few cases, except where they are now back-rented. *Q.* Has it come within your observation, in your own district, that outsiders are frequently offerers for farms?—*A.* Yes, very frequently; and I have known men preferred, who had neither capital nor skill. The result is farming for a year or two, and then either giving up or bankruptcy. I know one case where the man failed before he entered the farm. That was on a different estate from the one which I have referred to. I have known tenants fail with liabilities of £8000 or £9000 and under, and, in some cases, the landlord took everything, and the other creditors got nothing. In some cases I have known the other creditors get 8s. a pound. I think a tenant should have sufficient capital to be independent of his landlord. If a man had sufficient capital on entering a farm, but lost it in a few years, the landlord must just look out for another tenant. If he failed to pay a half-year's rent, the landlord might put an end to the lease. At present, most leases are at an end when a tenant becomes bankrupt. That is matter of stipulation, and, if the law of hypothec were abolished, both parties would make whatever stipulations they thought proper. *Q.* Do you think landlords would let their farms, if the law were abolished, without stipulating either for security for the rent, or for forehand rent?—*A.* I think they would. If they took a tenant with sufficient capital and skill, I don't think that would interfere with the letting. I don't think they would ask any other security, at least in Roxburghshire. I think, if the law were abolished, landlords would be more careful in inquiring as to their tenants. *Q.* Then you think it is possible to make men prudent by Act of Parliament?—*A.* It would be by their own pockets suffering. *Q.* Don't you think landlords' pockets suffer under the present law?—*A.* There is not much fear of their suffering under the present law; they generally gain by it largely. I don't think a landlord would knowingly prefer a tenant who has neither capital nor skill, but, as long as the present law exists, it is not very important for him to inquire whether he has capital and skill. I sell my produce at Hawick, Jedburgh, and Kelso. These are sample markets. I am clearly of opinion, that that portion of the law should be abolished which permits the landlord to follow the produce of the farm after it is sold; but I am for entire abolition. I don't think there is any distinction between a landlord granting a lease for 19 years, and a manure merchant who may have only one transaction with a tenant. The one is risking merely the interest of his money, while the other is risking his capital as well. I don't think there is any danger that landlords would cease to grant leases. It would be for their own interest to grant leases, because the farms would be better improved.

To Mr M'Lagan.—Suppose a landlord lets a farm for 19 years, and the tenant dies in the middle of the lease, I would not give the landlord any security for the payment of the rent, in such a contingency. It is no doubt frequently the case that, when a tenant dies, and the farm is managed by trustees or others, it is very much deteriorated in value before the expiry of the lease. But I don't think the landlord is more entitled to preferable security in such a case, than any other creditor. If they do not farm according to the lease, the landlord has recourse against them. The tenant is as much obliged to the manure merchant and the general public as to the landlord. Manure merchants and others have not the same opportunities of knowing the condition of tenants that landlords have. If a manure merchant were beginning to be very particular in his inquiries, he would not sell much; but the competition for farms is such, that the landlord need not be very much afraid to ask very particularly into the circumstances of the offerers. I have no doubt that merchants generally do make inquiry, to a certain extent, as to the circumstances of tenants and others with whom they deal. I am now tenant of Spylaw. I succeeded my brother, who died a few months ago. The tenant under the former lease was a gentleman who was well known as an excellent farmer. I have heard that he was offered the farm again privately. It was then advertised, and let at a large increase of rent. *Q.* Do you think it was the law of hypothec that caused the rise in the rent of that farm?—*A.* It might help, because farms have actually got above their real value now; and, to get a farm, you must be content with a very small per-centage of profit from it. I don't know if any outsiders offered

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for that farm. I know a number of the offerers, and they were all men of capital, and most of them men of skill. So far as I know, the competition for the farm was mainly among men of capital and skill. I think the offers were sealed. The tenant who took my father's farm, in the circumstances I have explained, was an outsider. He remained only two years in the farm. That case and the case of Spylaw were not the same, though I have no doubt the same thing might be at the foundation of both to a certain extent. I think farms, which have been advertised, have risen over the country generally more than they would have done. The cause of that is, offerers with neither capital nor skill offering against men with both. We must come nearly up to them, or want. I would not consider that the estate which I mentioned, on which all the tenants have failed within about 20 years, has been properly managed. I think it is an exceptional case ; but there are farms on other estates that have got into the same position, from offerers having been taken who had not capital. I don't think landlords make sufficient inquiry as to the means of tenants before letting them farms. *Q.* Suppose a landlord's agent were to inform you that they do, would you believe it?—*A.* No, I certainly should not, because facts go before words. *Q.* You mentioned a case where a number of tenants failed, but where their farms were well managed?—*A.* They were well enough farmed, but the tenants ran short of capital. They had not half capital for the farms. They were not wanting in skill. I don't think the term of payment of rent would be altered in Roxburgh if the law were repealed, because, in most cases, the rent is paid before the crop is reaped. *Q.* Therefore, in Roxburgh, we have farms which are fore-rented, and still, on one estate, we have all the farmers failing for want of sufficient capital?—*A.* Yes, but that was not perhaps from want of sufficient capital being offered. There might be other offerers with sufficient capital. It was the landlord's or the factor's fault, not taking offerers with sufficient capital. I think some of these tenants had only hundreds for thousands, which they ought to have had. In the case where a tenant failed before entering on his farm, the farm was taken before he failed. Of course, he did not get it after he failed.

To Sir W. Gibson Craig.—I think fore-renting would be a sufficient security, if the landlord took proper precautions, before letting his farms, to see that the tenants were men of capital and skill. On the estate I mentioned in Roxburghshire, the landlord was a very great gainer, because he got a considerable rise of rent after the failure of each tenant. He is getting many hundreds a year more than he would have got. So long as the law of hypothec exists, landlords run no risk. *Q.* Don't you think that, where a tenant was beginning to go back in the world, the guano merchant would often take care to get his account paid before the landlord could demand his rent?—*A.* I don't think that is likely to happen. I think tenants would be more anxious to be pointed in paying their rents. I think guano merchants are quite as lenient to tenants as landlords are. If they see their way, they would be quite as much inclined to let the tenant go on as landlords would be. Of course the guano merchant would try to get his money if he thought the tenant in a bad way.

To the Chairman.—I see no objections to there being a statutory irritancy of the lease, if the tenant becomes bankrupt. I don't think there would be any injustice in making the abolition of the law of hypothec apply to existing leases. The landlords have been getting a much larger sum for rent on that score, than they would have got.

To Mr Curror.—The fact of a landlord letting a good farm to a tenant, induces the guano merchant to give him credit. He generally goes on the faith of the landlords having taken proper precautions in letting the farms.

To the Chairman.—*Q.* But you have told us that the landlords generally do not make proper inquiry?—*A.* I did not say generally. I said a number of them did not. Some of them, I have no doubt, make very particular inquiry. I don't think it is the general rule, that they do not make sufficient inquiry. *Q.* But you say guano merchants think that the landlords do make sufficient inquiry; have not the guano merchants the same means of knowing whether they make sufficient inquiry as you have?—*A.* I don't know that they have.

To Mr M'Lagan.—It is a fact that, in Roxburghshire, within the last 40 or 50 years, many tenants have commenced with small means, and now hold, by themselves or their families, very extensive farms. *Q.* You would say, therefore, that the law of hypothec has not acted injuriously to such tenants?—*A.* They might

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possibly have made far more but for the law of hypothec. But many tenants have thriven under the law.

To Mr Hope.—Landlords generally make inquiries as to the means of tenants, but there are a number of exceptions to the rule. The letting of farms on estates, where they don't make sufficient inquiry, has a prejudicial effect on the tenants on estates which are well managed. The rise of rent influences the farms which are valued. I think the law of hypothec must have operated still more prejudicially in counties like the Lothians, where farms are back-rented 18 or 20 months. On that system, tenants could take farms with a very small capital indeed. *Q.* When a tenant fore-rents his farm, he does not necessarily become more liable to sequestration than when it is back-rented, provided he starts with sufficient capital?—*A.* No; I would think the very reverse. He would be able to make better bargains with the manure merchants and everybody else.

To Sir W. Gibson Craig.—I don't know what rent my predecessor paid for Spylaw, nor what he offered for it; but I understand the present rent is higher than he was offered the farm at.

To Mr Hope.—He had been two leases on the farm, and had made great improvements.

To Sir W. Gibson Craig.—I don't believe that the farm was let at a rise of £500 beyond what my predecessor would give; but I don't know. I did not ask, and I was not told.

To Mr M'Lagan.—My family has risen from one farm,—the farm of Heriotsfield. My brothers and myself now pay rents amounting to about £14,000 a year. All the farms are in Roxburghshire, except one in Selkirk. Heriotsfield was a small farm, lying totally waste when my father took it.

To the Chairman.—That was the farm he lost in the way I have stated.

To Mr Fleming.—I speak the sentiments of my family as to the law of hypothec.

To Mr M'Lagan.—I think back-rents are prejudicial to the progress of agriculture. I am aware that agriculture has made great progress in the Lothians. Many of the farms there are very well farmed, according to the system they are farmed on; but I don't think their system is good at the present time.

To the Chairman.—They should rely more on stock, and less on grain, at present prices.

To Mr Curror.—If the farms were fore-rented, the rents would be lower, but I think that would be an advantage to both landlord and tenant. The landlords would get farmers with more capital, and, in the end, they would get as much money.

To Sir W. Gibson Craig.—I did not say that a great proportion of the farmers in Scotland had made capital. I said they had capital. I did not say that they made it by farming.

To the Chairman.—I don't consider men outsiders if they have capital.

To Sir W. Gibson Craig.—I think a good number of the farmers have come in from other professions, and have had capital in that way.

To Mr M'Lagan.—I don't think they are outsiders if they have come in with capital. I count outsiders those who have neither capital nor skill.

To Mr Fleming.—I would think it perfectly fair competition, if I were offering for a farm, that a merchant who had ample capital should also offer. That would just be free trade. The landlord would take the person who had the skill as well as the capital. If I were a proprietor, and two persons offered for a farm, the one without skill, but with double capital for the farm, and the other with skill, but only half capital for the farm, I would take the one with the capital, both being equal in respectability.

(26.) STEUART BAYLEY HARE, Esq.

Steuart Bayley Hare.

To the Chairman.—I am proprietor of Calderhall, in the county of Mid-Lothian, and I act as factor and commissioner on Lord Hopetoun's estate. At one time I farmed largely for myself, but not since I have been Lord Hopetoun's factor. The farms on Lord Hopetoun's estate vary very much in size. In East Lothian they are almost all large farms; in West Lothian they vary, and some of them are quite small farms. I call a farm rented below £100 a very small farm; and there are some not above 40 acres in West Lothian. That is about the smallest, and the largest is about 500 acres. There are two or three large farms in West

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Lothian, and more of them in East Lothian are large. In East Lothian the entry is at Whitsunday and separation of crop; and the farms are back-rented. In West Lothian the entry is generally at Martinmas to the whole, and the first rent is payable at Martinmas after reaping; but it is seldom exacted till Candlemas, and it is sometimes not paid till March. If a tenant was thought not likely to pay, we would look sharper after him, but the practice is to take the rent about the beginning of February. The class of tenants on these farms is very various. I think the abolition of the law of hypothec would act very prejudicially to one-half of Lord Hopetoun's tenants,—I mean those who labour on their own farms. It would be prejudicial to them in this respect, that they could not pay a fore-rent; and I think it would be necessary to introduce fore-rents, if the law were abolished. I should expect that this would have a tendency to lower rents, from the diminution of competition; and I think it would have very bad results on small dairy-farms, rented at from £200 to £300 a year. You cannot get men of capital to take these farms, because you require women accustomed to dairies, and men accustomed to the plough. It is difficult to say what would become of these farms. Some of the tenants would get security, and some of good character the landlord would run his chance with. The places would not be left vacant altogether, but it would create great confusion for a while. There are many very respectable tenants that I would have the greatest concern about going to, and telling them that they must go out of their farms if they could not pay fore-rent. That class of tenants would descend to the position of labourers, or to some other employments, or possibly many of them would emigrate. I think the change would do a great deal of harm. The large tenants would expect to benefit by the change,—those who have capital to pay fore-rent. They would expect to have less competition, and thereby to get their farms cheaper; though whether it would have that result to the extent they expect, I don't know. *Q.* Would you require to take any other security than forehand rents?—*A.* I don't know any other that we could get,—either that or some guarantee that we would be satisfied with; but none of us have had occasion to study what guarantee might be taken in place of the hypothec. Most of the small tenants that I have had to deal with are improving tenants. I have been Lord Hopetoun's factor for 16 years, and I think about four tenants in that time have been in bad circumstances, but that is all. It was found necessary to resort to sequestration in these four cases; but these are the only cases of sequestration we have had in the 16 years. The other creditors could not have lost much in these cases, because the men had not much credit; but I never heard what the losses were. The landlord lost the expenses of the sequestration, but not his rent. He lost more from the bad condition in which the farms were than from anything else.

To Mr Carnegie.—Men of capital do not take small farms in our district. Most of the small tenants, to whom I have referred, are improving, and some of them would be able to pay fore-rents at the end of their lease. I don't know as to the majority of them being able to do so. Some of these men, who have small dairy-farms, have shown me receipts for their rents, extending back a much longer time than one would suppose families would stay in one place,—200 or 300 years; and they have not improved their position much within the time my knowledge extends. They probably hold a little more land now than they did then, but the receipts did not show what they held then. It would depend on the circumstances of each family, whether they could pay fore-rent at the end of their lease. Some of them put their sons in other farms, and give their daughters portions when they marry; and there are various reasons why they might not be able to pay fore-rent.

To the Chairman.—Most of them have brought up their families respectably.

To Mr Carnegie.—We have not got any great increase of rents for these dairy-farms of late years,—not nearly so much as for the larger farms. The dairy-farms still require drainage to a considerable extent.

To Mr Hope.—In selecting tenants, we try to secure men both of capital and skill. *Q.* You don't think there would be any great loss to landlords, if the law of hypothec was modified so as to compel the fore-renting of farms?—*A.* I am not at all positive upon that head. I don't know what would be the result exactly.

To Mr Curror.—As a rule, the tenants of the small farms are men of very good character. Even these, I think, we would require to pay fore-rents, or to find security that the rents would be paid. *Q.* Do you think the tenants of

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these small farms of 40 acres are in a comfortable position?—*A.* I would rather be a labourer myself; but they have been accustomed to it, and they would think it a great hardship to be put out. *Q.* Still, it is not a great benefit to themselves?—*A.* Not in the case of the very smallest farms. I have always tried to put these very small farms together as much as I could, when it was not a hardship to families. *Q.* If a number of the small farms were put into one, and let to a man of capital, neither the estate nor the interests of agriculture would suffer?—*A.* It depends on what you call a man of capital. I think, when you have wet land, neither adapted for sheep nor for corn-growing, dairy-farming is the most profitable way you can use it. *Q.* If the law were abolished, do you think it would have any great effect on the rental of the estates which you are connected with?—*A.* I think it would lead to great inconvenience in the management of them.

To Mr Fleming.—I know the district about the west of Mid-Lothian, the upper part of Lanarkshire and Linlithgowshire. I don't know the southern parts of Scotland, nor the northern part. *Q.* Do you think it desirable to maintain that portion of the law which entitles the landlord to follow grain sold, delivered, and paid for?—*A.* I don't see that any parties are complaining, as a class, of any injury from the present system, except the large farmers and capitalists, who want cheaper land. *Q.* Is it not within your experience, that parties whose business it is to purchase grain from farmers are placed at a disadvantage by the law?—*A.* I never heard any one complain of it. If such a thing happened often, I would hear of it, and other people would hear of it; but I never heard of a single instance of that in my own experience. The object of postponing the term of payment of rent is to enable the farmer to realize his crop. It gives him a larger fund of credit. *Q.* Don't you think the law comes in there very unreasonably, and prevents him from doing the very thing which it is the object of that postponement to enable him to do?—*A.* I don't think it is unreasonable. I would maintain the law, even to that effect. I don't think the publication of sequestrations would do any harm; but, at present, when a man is sequestrated, all the country knows it very soon. I never heard of any one having to pay twice for grain, or to refrain from dealing with a farmer, on account of the law of hypothec. If the law were abolished, we must either have forehand rents or security. What I mean is, that the tenant must either find security, or pay a year's rent when the farm is put into his hands, and pay a year's rent in advance throughout the lease. If at any time he could not pay his rent, that should operate as an irritancy of the lease. Fore-rents, *i.e.* the entry at Martinmas and the first rent payable at the following Whitsunday, would not be absolute security to the landlord. *Q.* Supposing the tenant failed to pay at Whitsunday, the landlord might render him bankrupt, the crop being then on the ground; but would not the effect be simply to give the landlord a ranking with the other creditors for the year's rent?—*A.* I think so. *Q.* So that the substitution of fore-rents would give the landlord no security whatever?—*A.* I don't think it would give him the security that a prudent man would desire to have. I don't think that manure and seed merchants are placed at any disadvantage under the present law; at least, they would not be more secure under a new system, because the tenants must be due other debts, which these merchants know nothing about. There is great competition for farms at present. In my experience, the people seeking farms are the sons, or nephews, or other relatives of those connected with agriculture. A good many butchers, who have taken grazings, also commence farming; but those who become tenants are almost all connected, directly or indirectly, with agriculture. There are not many residents in towns who commence farming. I have never seen anything but what was quite fair in the competition for farms. In consequence of recent low prices, many of the farms offered for four or five years ago are too dear, but I don't think the rents offered were unreasonable at the time. I don't think there is any foundation for the statement, that, to a large extent, landlords and factors do not exercise ordinary prudence in the selection of tenants. All the landlords and factors I meet are as anxious on that point as they can be about anything. The selection of a tenant is the subject of the greatest anxiety in the management of land.

To Mr M'Lagan.—For the small farms which I have put together, I get very much the same rent as they yielded separately; but the great inducement to throw them together is, that it saves keeping up buildings for each small farm.

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Lord Hopetoun has between 70 and 80 tenants, and one-half of them would be put to great inconvenience by a change in the law, from our requiring them to prepay their rents. I believe a great part of Scotland to be very poor, and much occupied by small farms. Except the large sheep-farms, and the East Lothian farms, almost the whole of Scotland that I have seen is occupied by poor tenants. There are, of course, exceptions; but the mass of the tenants are not wealthy. Much more capital is required in the management of land than was the case some years ago. The tenants must drain, and go through a great many expensive operations, which were not thought of 40 years ago. The repeal of the law of hypothec would be very inconvenient now; but I think it would have been fully more so some years ago, when people were poorer. I think the very small farmers are in a worse condition than labourers. It is not that class who have been in their farms for generations. I alluded to the farmers who pay from £200 to £300 of rent. I believe these tenants to be in easier circumstances now than when they began farming for themselves; and I would observe, that I think the large class of small farmers are not so much alive to the importance of this question as the larger farmers. They think they will be in the same boat with their neighbours. They don't think of the political results of a change in the law.

To the Chairman.—I have never heard them complain of the law.

To Mr Curror.—It is hard to have to pay for grain a second time, but I doubt very much whether it is done. I never knew a case in which a man had to pay twice for farm produce.

To Sir W. Gibson Craig.—The existence of the law, I have no doubt, prevents attempts at collusion.

To the Chairman.—I never heard of any inconvenience being suffered by tenants from the distinction between selling by bulk and by sample. I think the requirement that grain shall be sold in bulk, in order to its being protected, is likely to prevent any improper sale taking place. No tenant ever complained to me of the state of the law, nor of being unable to get credit from bankers or others on account of it.

To Mr Carnegie.—Even if the landlord had a preferable claim for the amount of one year's rent over the stock and crop, there would require, I think, still to be payment of rent in advance. I don't think fore-renting would give sufficient security.

To Mr Hope.—I have no doubt that there are entailed estates, where the heir succeeding has received no rents for two years, on account of their being back-handed. That is an inconvenience, but it is easily met. The heir can easily raise money in the meantime.

(27.) Mr ROBERT FRASER.

Robert Fraser.

To the Chairman.—I am a farmer and distiller at Brackla in the county of Nairn. As a distiller, I have frequent dealings with the farmers in my part of the country. I purchase from 2000 to 2500 quarters of grain in the year, the cost of which, on an average, is £5000. My purchases are almost entirely in the district where I reside. I am also a farmer. My farm extends to about 320 imperial acres, and my rent is £440. It is on the property of the Earl of Cawdor. My term of entry is Whitsunday and separation of crop, and the first rent is payable at Candlemas twelvemonth. That is the general rule in the district. *Q.* Have you, in your dealings with the agriculturists in your neighbourhood, experienced any inconvenience from the existence of the law of hypothec?—*A.* On one occasion, a good many years ago, when my father was alive, a tenant in the neighbourhood sent by post a sample of barley, which was of very good quality. We made him an offer for it, delivered at the port of Nairn; and, almost as soon as a vessel could be got, he was over with the grain, landed it, and handed the bills of lading to me. I saw that the grain was all right on board, and immediately gave him a cheque in payment of it. Next post brought me a demand for repayment of the price from the proprietor's factor. I remonstrated, and placed the matter in the hands of a law-agent; and, after it had been fought for two years in the Sheriff Court, the claim was withdrawn by the proprietor, but not till I had experienced a loss of £40 or £50 in law expenses. That was a sale in fraud of the landlord, as I believe the barley had been sequestrated,

Robert Fraser.

though, of course, unknown to me. That is the only case in which I ever experienced any inconvenience from the law, and I have been in business about 18 years on my own account, and 25 in conjunction with my father. I am not aware of any case, in my part of the country, in which any other person has suffered. I hold at present a past-due bill of a tenant, and I know it would be perfectly hopeless to take steps against him, because the landlord would step in under the law of hypothec. He failed two years ago, and was only able to pay 2s. in the pound to his creditors. I think the law should be considerably modified, or swept away altogether. There could be a preference in favour of landlords, over a certain portion of the stock on the farm, but not over the crop; and I think, if the terms of payment of rent were shorter, and men of capital were selected as tenants, the landlords would be secure. I think it would suit tenants, in my part of the country, to introduce forehand rents. I had a farm from the Earl of Seafield at one time, for which I paid forehand rent, and I thought it a great advantage. I entered at Whitsunday, and paid the first half-year's rent at Martinmas, and the other half at Candlemas, and I left the farm with a considerable amount of money in my possession, but it would have been quite the other way if I had a back-rent to pay. I think fore-renting would secure a better class of tenantry, and, on vacating their farms, they would do so with capital in their pockets. I don't see that there would be any objections to paying a half-year's rent at the period of entry, and so on in advance, if the proprietor deducted the interest, or gave an equivalent by reducing the rent.

To Mr Fleming.—I never felt any hesitation in dealing with farmers for grain on account of the law. I have lived so long in the district, that I know all the farmers well. But, as we have no stock market in our country, a purchaser would always be liable, if anything was wrong with the farmer from whom he bought. I would not deal with a tenant whom I knew to be in difficulties, without making inquiries at his factor as to how he stood.

To the Chairman.—I know a case where an outgoing tenant was anxious to remain on his farm on the expiry of his lease, but where the proprietor took another tenant from the south country at a considerable increase of rent. He did not hold the farm above two or three years when he failed for £2640. The proprietor had a preferable claim, and the other creditors did not get more than 5s. in the pound, and the farm was re-let at a rent considerably less than the former occupant had offered for it. I think it was entirely the law of hypothec which induced the landlord to take that party as tenant. I don't think such cases are frequent, but they occur occasionally. Proprietors generally take the highest rents, except in very few instances.

To Mr Hope.—I think the people in the neighbourhood trusted the tenant I have spoken of to a considerable extent, thinking he was a man of capital. He paid a large rent, and his failure caused great loss to the tradesmen in the district.

To the Chairman.—I suppose the landlord thought him a man of capital, or perhaps he did not inquire. He was able to stock the farm well.

Monday, January 9, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR HOPE.
HON. MR CARNEGIE.	MR M'LAGAN.
MR FLEMING.	MR CURROR.

(28.) MR JOHN CRAWFORD.

John Crawford.

To the Chairman.—I am a corn-factor in Glasgow. I am secretary of the Glasgow Corn-trade Association, the objects of which are to make rules for the government of the trade locally, and to take cognizance of any public matters of a local or general kind affecting the trade, and to communicate with public bodies in regard to these matters. The association has specially directed its attention to the subject of the law of hypothec. Mr Taylor (the next witness) and I have been deputed to represent the views of the association to this Commission. The association petitioned against the law of hypothec in the last session of Parliament. The petition was not in favour of the total abolition of the law. It expressed disapprobation of the law as it stood, and requested investigation and modification. I could not say whether the association is in favour of a modification, or the total abolition. That has not been sufficiently put to it. The principal objection, which I have to the law, is to that part of it which permits the following of grain after it has been delivered and paid for. That never occurred to myself, because I deal very little with farmers; but I know of three cases which occurred among the people with whom I deal and correspond. I myself deal as a factor selling corn in the Glasgow market, where there is not much done with farmers; in fact the market in Glasgow is not a farmers' market. I do not know the particulars of the three cases which I have mentioned. One of them occurred recently, but I don't know how long since the others occurred. I have merely learnt them in the course of my correspondence. One took place in Renfrewshire, one in Forfarshire, and the other in Ayrshire. I don't know the particulars of them; but in all the three repetition was claimed and exacted. I think any legitimate sale ought to be protected, whether in a sample market or not. The *bona fides* of the buyer should validate the sale. I am not acquainted with the general operation of the law between landlords and tenants, and therefore I am not prepared to say what security the landlord should have for payment of his rent. I object to the present system of stock markets, as being quite inefficacious, even supposing the law were to remain as it is; and I object to the proposal to substitute sample markets instead of the present markets. I would allow the farmer to sell his grain under any circumstances that are legitimate. I have no other objection to state to the law. I have ascertained the laws of other countries with reference to this subject. I wrote to my correspondents in France, Belgium, Hanover, Holland, Hamburg, Prussia, and Denmark; and my correspondents generally sent me opinions written by their lawyers; and I find that in none of these countries does such a principle exist as following grain, after it has been *bonâ fide* sold and paid for. I have no other objections to state to the existing law, because I am not competent to form an opinion on other points connected with leases, etc.; but I object to grain being followed, after it has been *bonâ fide* sold and delivered by the tenant to an onerous owner. I also object to the stock-market system; because, in the present state of the population and business generally, the farmer finds that he can sell his grain more advantageously than by carting it a distance into a stock market. He has probably to take it away again by railway; and the practice has now been established of only sending a single bag into the stock market, and leaving the rest at the station, by which the buyer is defeated of the protection now given him by the law of hypothec. Stock markets are not less numerous than they were; but the practice of selling in them is not so common.

John Crawford.

In Oliver and Boyd's Almanac I find there are 108 markets for the sale of corn, etc., in Scotland, and I can only make out ten which are bulk or stock markets. In fact there are none north of the Forth, except Kirkcaldy and Alloa; so that the farmers or merchants in other districts have no opportunity of protecting themselves by buying or selling in stock markets. I object to confine the privilege to sample markets; because, although they are more numerous than bulk markets, there are many districts in which they don't exist. If the law made it necessary, for the protection of the buyer, to sell in sample markets, the first question to be decided would be, what a sample market was, and Glasgow market would not be a sample market. It is a private joint-stock company, and the market-days have been made by ourselves, and altered by ourselves, and the hours are altered from time to time. No farmer can come in and sell unless he pays £10 of rent for a stand; he can come in only to buy. I don't think that sales effected out of public markets should be intimated to the landlord, or registered in any way. The tenant should be free to dispose of his crop in all legitimate ways. It may or may not be found expedient to continue the law of hypothec as long as grain or produce is on the farm; but, after it has been removed, I don't see that any fetters should be thrown upon the buyer or farmer in regard to the sale or purchase of grain, or other agricultural produce. A great deal of corn is also consigned for sale by farmers to Glasgow and other markets, and I think that ought to be as legitimate a transaction as a sale by a farmer. *Q.* Your observations extend, of course, to *bonâ fide* sales—not to sales by collusion?—*A.* Certainly. In many districts the farmers have no opportunity of selling even in a sample market. There is no sample market in Greenock; and in such places as Campbelton the farmers have 20 distilleries at their own door to sell to, and they could not find a sample market nearer than Glasgow. Besides, if farmers could only sell in a public sample market, they would be limited to the market-day once a week, and they would not have the power of taking advantage of the rise or fall of the market. Wheat might rise or fall 10s. per quarter before the next market-day, and they would be precluded from selling by letter, which is often done. I think the changes which I advocate would benefit the farmers more than the purchasers. It would be more my interest that the grain should be required to be sold in Glasgow market, than that it should be sold by the farmers themselves out of the market; but I think that would be an unjust view to take of the case. *Q.* Do you see any disadvantages in the present law to any other class of the community?—*A.* There is another class, but they of course know what they are about, who buy hay, potatoes, etc., and get them stacked or pitted on the ground. If the law of hypothec were to remain as it is, they would still be liable, but they are not in the same position as buyers of corn after it is delivered. I am not prepared to say that there should be a change of the law in their case, because that goes to the general law of hypothec, and not to the particular exception which I am pleading against. My own feeling as a merchant is, that the law should be abolished, so far as I can judge of the matter, in the present days of free-trade; but I am not sufficiently acquainted with the relations between landlord and tenant to say whether it ought or ought not to be abolished.

To Mr Fleming.—I have been more than 35 years in business. I have frequently acted as agent in selling grain received from farmers on consignment. *Q.* Have you recently declined to sell on account of farmers in consequence of the existence of the law of hypothec?—*A.* I have, but not in many cases. My reason for that was the present state of the law as to following grain. I feared the possibility, if not of being liable myself, at least of those who bought from me being liable. I would be viewed as the representative of the farmer, and the buyers from me might be brought in under the law of hypothec. The Glasgow Corn-trade Association consists of 94 members, and I don't know one who has any other view as to the law than that I have expressed; but, on the general question, they have given no opinion as a body, though the committee have petitioned against the law generally, and especially in regard to the power to follow grain. If landlords' sequestrations were published, and if a tenant, notwithstanding a sequestration, sold his grain and got payment for it, I would give the landlord power to follow it, whether the purchaser knew of the sequestration or not, on the ground that it would be a fraud on the part of the tenant. In other cases the grain should not only be delivered but paid for,

in order to give the buyer a right to retain it against the landlord. I would not exempt existing leases from the change which I advocate in the law. John Crawford.

To the Chairman.—In the three cases which I have mentioned, I am quite satisfied, from the character of the parties, that there was no collusion.

To Sir W. Gibson Craig.—I do not advocate the total abolition of the law, because I am not competent, from my knowledge of leases and the relation between landlords and tenants, to form an opinion on that subject. Speaking as a merchant, my idea is that it ought to be abolished; and in the change I advocate, of doing away with the right to follow grain, I do not propose to give the landlord any additional security to that which he has at present. *Q.* Do you know anything about the right of hypothec as to urban tenements?—*A.* Yes. I know that a shopkeeper or manufacturer has a power to sell his goods as long as he chooses, and that every sale is a *bonâ fide* sale, valid to the purchaser, till the landlord takes his legal process, and shuts up the premises. I would advocate something similar in the case of the farmer. A house is a different thing. A house is not a manufactory for corn or for anything; a farm is a manufactory for corn and cattle, as a shop for selling drapery goods is, but the sales of the tenant of that shop are valid till it is shut up; and I have had a difficulty always in seeing why it should be different in the case of a farm, which is just a manufactory in another sense of the word.

To Mr Hope.—The Glasgow Corn-trade Association are both purchasers and sellers of grain. They are not farmers; but the views I have advocated are more in favour of farmers than of purchasers, in so far as permission to sell out of market is an advantage. I have come here as representing the corn trade—not farmers. I think it unjust that landlords should postpone the payment of their rent till the crop is sold, and then make purchasers repeat that payment.

To Sir W. Gibson Craig.—No individual member of our association, so far as I know, has ever had to repeat the price of grain. It is a large association, but our district is very little of a farmers' district. Our transactions in foreign grain are so enormous, compared with what is grown in this country, that the farmers' grain is quite insignificant. No farmer requires to bring his grain to Glasgow more than seven or eight miles at the utmost, and some of them not two or three; they find purchasers at their own door. There is not as much wheat grown in the county of Mid-Lothian as would supply Glasgow for three weeks. *Q.* But, notwithstanding the large number of your transactions, you only know three cases in which persons among your correspondents have suffered any loss arising from the law of hypothec?—*A.* I have no doubt we suffer indirect loss, in so far as impediments are put on our business.

To Mr Fleming.—The law deters those who buy from farmers from dealing with them. I know many cases where people, who have been in the habit of buying from farmers, don't buy from them now, where they have the slightest doubt or suspicion. The consequence is, that farmers are put to disadvantage in selling grain. That feeling is becoming quite general since the Ayrshire case occurred.

To the Chairman.—I cannot say that I have ever heard any complaints on the subject before the Ayrshire case occurred. It was not very much talked about before that, but it has been very much talked about since.

To Mr Fleming.—The consumption in Glasgow of wheat and flour alone is 16,000 quarters per week, which in money at the present price is £32,000. That is the average weekly consumption for 12 months; but that bears no proportion to the amount of grain grown by farmers in our neighbourhood. From statistics taken by Mr Hall Maxwell in 1854, '55, and '56, I find that there are only about 50,000 quarters of wheat grown in Mid-Lothian; and that in Ayrshire more wheat is grown than in Mid-Lothian. In a great many places in the west of Scotland, where there are no markets, such as Greenock, Dumbarton, and Paisley (which can scarcely be said to have a market), the farmers call on bakers, or millers, or dealers, and sell their wheat, etc., among the people most conveniently situated in point of proximity. It is a common thing in the west country for farmers to make their own meal and sell it, and they find purchasers at their own door; so that the system of selling in public market (whether a sample market or not), is not suitable for a large portion of Scotland. There is a great deal more wheat imported and consumed in Glasgow in a year, than is grown in Scotland altogether. Last year we imported 900,000

John Crawford.

quarters, and only about 700,000 quarters are produced in the whole of Scotland. I mention that to show that the dealings of our association with farmers are infinitesimally small as compared with our dealings in foreign grain. *Q.* Have you known cases where parties, who are brought into more direct contact with farmers in the west of Scotland, have been called on to pay for grain a second time?—*A.* I know the case of a baker who had to do so. That is one of the three cases which I have mentioned. As to our comparative dealings with farmers, I find that from Denmark alone 1,000,000 quarters of grain came to this country in 1863; and our imports of wheat from France in 1859 were 2,000,000 of quarters.

To Sir W. Gibson Craig.—A large quantity of the grain produced in Scotland is consumed in Glasgow. It is not bought in the Glasgow market, but it is bought by Glasgow agents, and brought to Glasgow. *Q.* But no member of your association has sustained any loss?—*A.* Not that I know of. There is a large quantity of grain bought in the country markets by Glasgow brokers, who charge a commission for buying it for distillers, etc. In all these cases I think the brokers are liable. The law is such now, that we will be sure to suffer more than we have hitherto suffered.

(29.) Mr WILLIAM TAYLOR.

William Taylor.

To the Chairman.—I am a grain merchant in Glasgow, and a member of the committee of the Glasgow Corn-trade Association. I have heard Mr Crawford's evidence, and I concur in almost everything he has said. I have little to add, except that I am in a different position from Mr Crawford, as being a buyer of grain from farmers. I do very little on commission. I buy on my own account principally. I have been a grain merchant in Glasgow about 30 years. I have never had to repay the price of grain, though I know several instances in Glasgow and neighbourhood in which parties had to do so. Within the last two months, I bought some grain lying in a mill in Glasgow. The farmer had sent it there to get dried. I bought it on the Tuesday, and the farmer was to call for his money on the Friday. I sent on the Thursday for a sample, and within half an hour the landlord put arrestment on the grain. The landlord got the grain, and we sustained no loss. Part of the year I buy 500 or 600 bolls of wheat a week from farmers; but I could not give an estimate of the money extent of my dealings with farmers in the year. I only deal in wheat and flour. Since the Ayrshire case, I have declined to buy from farmers that I was not quite sure about. I have no objections to state to the law, in addition to those stated by Mr Crawford.

To Sir W. Gibson Craig.—I am not sure whether the members of the Corn-trade Association have sustained loss from the state of the law, but I have never heard of any. In the case which I have mentioned, where I bought grain recently from a farmer, if the man had called next day, as many of them do, I might have paid him the money, and considerable trouble might have been occasioned. The interference of the landlord was similar to arresting goods *in transitu.*

To Mr Fleming.—The landlord would have been entitled to arrest them after I paid the money, which an ordinary creditor would not have been entitled to do. If that grain had been transferred to my name, I would have been safe against an ordinary creditor, but not against the landlord. I think farmers have suffered very great disadvantage from the law of hypothec. In many cases, I don't think they can sell their crop so advantageously to themselves as they could otherwise do. I have not considered the question, whether any change should be made in other branches of the law. I know three cases of bakers who have had to pay twice for wheat. One of these was in Paisley, and the other two in Glasgow. In one case, the matter was compromised; and in the other two, they had to pay in full. These cases have taken place within five years.

(30.) Mr DAVID CROSS.

David Cross.

To the Chairman.—I am a seed and manure merchant in Glasgow. I have been in business for 25 years on my own account. My brother and I succeeded my father, who was in business for 50 years before that. My father came to Glasgow about 20 years before I joined the business, but he was always in Glasgow or neighbourhood. We have numerous transactions with farmers in buying and selling. We sell about £100,000 worth of manure and feeding-stuffs in the year, and we sell seeds and seed-grain to an additional extent of £30,000 or £40,000. We purchase rye-grass seed by sample, to the extent of £20,000 or £30,000 annually, from farmers and others. This year the quantity is less, owing to the bad crop; but, on an average of five years, our purchases of rye-grass seed have ranged from £20,000 to £30,000 annually. We also purchase grain, chiefly for seed. The seed-grain is purchased principally in the Lothians stock markets. I ought to mention, that we purchase grain by sample in the districts where we do business, in places where there are no stock markets. In the districts where we do business, I am brought very much in contact with the agricultural class, —with tenants who pay all sorts of rents. We have experienced loss from the law of hypothec. When tenant-farmers become bankrupt, we find that the sum to divide, after satisfying the landlord, is very small as a rule. During the last three or four years, our rankings on the estates of tenant-farmers amounted to about £2600, which was spread over about 87 debtors. From 67 of these we have received as yet no dividend; five have paid from 6d. to 3s. per pound; five from 3s. to 5s.; four from 5s. to 7s.; five from 7s. to 10s.; and one has paid 11s., which is the highest dividend we have received. Our loss has been £2600, less the dividends. That has been upon transactions to the extent of about £450,000 in the three years. In the seed-trade the rule is to give credit. Our accounts are generally rendered from Martinmas to Christmas, and a good many of them are paid about that time, though a great many are deferred till spring, when new transactions are gone into. Many of them pay cash for their manures, taking the benefit of the discount which we give for cash. Our rule is to deduct 5s. per ton from the price of manure for cash. As a rule, they don't pay ready money for seed; but some do, and we allow them 5 per cent. Our losses have been partly on seed transactions and partly on manures. There is a class of our customers who get manure and seeds together, from whom we don't ask cash payment. The two go into one account, and are paid together. It is not from that class that we sustain the loss, it is more from the class whose credit we try to limit. We stipulate for ready money from them, but are frequently disappointed in getting it. *Q.* Would the tenants, who are unable to pay ready money for manures, be able to pay forehand rents to their landlords?—*A.* In some cases they might. Tenant-farmers labour under this disadvantage with the present law, that their credit is doubted. They don't get those conveniences from bankers and others that merchants do. I have been told by bankers, again and again, that they disliked farmers' bills. One banker told me he would rather have a shoemaker than a farmer. He said that was in consequence of the law of hypothec. If there was no such law, I think a farmer would be a more eligible person for a banker to deal with than most merchants, because his subject is not so easily made away with. *Q.* Have you any other objections to the law? —*A.* I don't think that, in the main, it affects my trade injuriously. I am inclined to think that, if there was no hypothec, there would be more competition. *Q.* Then you don't think that the agitation, which to a certain extent has taken place among gentlemen in your trade, is wise on their part?—*A.* I look at the thing as the representative of an old-established seed business, and I cannot say much about it beyond the necessity of exercising great care as to whom I shall give credit to. The law of hypothec makes us guarded in every transaction. I can understand that manure merchants of recent date, who were not aware of the existence of the preference of the landlord under the law of hypothec, may have felt very great difficulties; but, looking at it from my point of view, I have not felt any great difficulty. I have heard my father pointing out the disadvantages we laboured under to persons who asked credit, and urging that as a reason why he could not give it. *Q.* Then the law has been of advantage as an excuse for not giving credit?—*A.* I think it is of no advantage to any person. I don't think it is any advantage to the landlord. I

David Cross.

don't see why the landlord should ask security. Of all classes he has the least need of security. He parts with the produce of his land for the current year; he does not part with his land. Even under a 19 years' lease he parts with nothing; he merely becomes a creditor of the tenant for the rent. In point of fact, he is the only instance of a person having a transaction wherein he parts with nothing. If I sell goods to a merchant on a six months' bill, my debtor can convert these goods at once into money; but, if a landlord lets a farm, the rent of which is payable six months after entry, or at any given time, his tenant cannot part with the subject. If he is a tenant such as ought to be selected, and such as every wise landlord will select, he must do, at the very threshold of his entry, that which is a permanent and effectual security, and cannot be withdrawn by himself or his creditors for many years. I do not see why the law should interpose an additional advantage to the strong party, because the landlord is the strong party here. He can let his land or not as he pleases, and he can make his terms for payment of rent what he pleases. If there was a change in the law, I think landlords would consider what would be best for their interests in regard to making any change in the terms for payment of rent; whether it would be better to take a good and industrious tenant who required a little credit, or to take a man able to pay the rent in advance, and so paying a less rent. It would not in every case necessitate the exacting of forehand rents; but, if the landlord desired it, I don't see that the law should interpose to make it unnecessary for him to do so. I think the class of tenants who require credit from their landlords are not benefiting themselves or the landlord, or the community generally. The really industrious, economical, and hard-working tenants are a credit to the country, and it would be a misfortune if anything were done to injure their position; but I don't think they would suffer. Landlords of small farms would be glad to have such tenants, even if they paid a backhanded rent. I differ from those who think that the abolition of the law would necessarily infer fore-rents. I think a landlord is perfectly safe with that class of tenants, if they are of the kind I have described. I can see no reason for the continuance of the law. It is a relic of a state of things long past away, when payments were made in kind, and when it was the practice for the landlord to go round and take so much of the crop before it was removed. I suppose the law originated in times when payment was in kind. Not long ago, in this country, the tenant was the mere servant of the landed proprietor. He wrought with the proprietor's implements as well as his land, and sometimes part of the stocking was the landlord's; and the landlord made a covenant to receive a certain proportion of the produce. Under that state of things, I could understand that there was some necessity for the law; but the relationship of landlord and tenant is now completely changed. If the law were entirely abolished, I would except existing leases; but, if there were a mere modification of it, I think it should be brought into operation immediately, even in regard to existing leases. I don't see any necessity for a mere modification; for you drift into a two years' preference, make your term of payment what you will. If the landlord is to have a preference for the current year, for example, he cannot exercise that preference without coming on a period when the tenant has intromitted with the land for the next year. It would be a vast improvement on the present system that landlords should merely have a preference for half a year, if that could be carried out; but I cannot see how that could be worked out, because the rent must be due ere action is taken by the landlord, and by that time a new period of occupation is entered on. Then you come to deal with a past rent and a current rent. I don't see how there could be a hypothec for the past rent and not for the current rent. Suppose the rent for previous crop due at Whitsunday, for example. The landlord sequestrates for the past rent, and sells; but the crop for the current year occupies the ground, and I think you could not ask the landlord to rank with ordinary creditors as to it. If you could ask the landlord to do without the current rent, you could much more naturally ask him to do without the past rent. I do not see that there would be any practical difficulty in having in the country at the same time a class of tenants not subject to the law of hypothec, and a class holding the existing leases, who would be subject to it till the expiry of their leases. In the course of time it would come to be all right; but, in the meantime, it would be necessary to make a distinction, when there came to be a doubtful debtor, between those under the law of hypothec and those who were not. It is only in a portion of the cases under

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the present law, where we are obliged to inquire how the tenant stands. The number is increasing, but it is only a proportion of the tenantry that we feel it necessary to make very special inquiry about. Our bad debts, however, have increased of late years. Where we do find it necessary to make inquiry, we find much greater difficulty in obtaining information as to farmers than as to merchants. We have applied to the tenant's factor, sometimes with success and sometimes without; and tenants, asking credit, have frequently come to me with their rent receipts to show that their rents were paid up. I think it is a degradation to them to have to show their receipts in that manner. I have been sorry to see them doing it, but they have done it from a painful necessity. I have been grieved to hint to respectable men, whose fathers have done business with me, that the times are bad, and that we don't know how they stand with their landlords. Stock markets do not exist in the counties where I do business; and, therefore, to tell a merchant that he can only buy grain safely in a stock market, is to tell him that he cannot buy it safely at all. I would abolish all right on the part of the landlord to follow produce. This very day I got an intimation from Glasgow that a dealer there had been called on to repay 1000 stones of hay, purchased at Hurlford in Ayrshire, and delivered and paid for in August last. My friends have telegraphed to me that they have seen the landlord's agent's letter, dated 18th December, threatening diligence unless a settlement is made in three days. Now I think it is a perfect disgrace, that such a state of things should exist. From what I know of Glasgow merchants, I cannot fancy that it was a collusive sale. I think if the buyer purchases in *bonâ fide*, he should be protected. There should be no *onus* on him to ascertain the relation between landlord and tenant. There should be delivery as well as sale, in order to a purchase being protected. A sale being completed by delivery, and the price paid, it ought to be of no importance whether the sale is effected in a market or not. The tenant should be allowed to sell on his own farm-yard, if he chooses. I have seen numerous cases of hardship under the present law. We ourselves have been threatened on several occasions with demands for repetition. We have been obliged to use all our influence to direct the landlord's or factor's attention to other sources from which his claim might be satisfied, rather than by falling back on us. We have never had to make repetition; but I know a case in Glasgow, where wheat was paid a second time by the miller who bought it; and I have heard of numerous cases where people have been very much alarmed lest repetition should be asked. I am satisfied that numerous cases have been compromised, though I cannot condescend upon any at present. I should certainly compromise a case quietly, rather than have litigation about it. Sequestrations have been becoming much more numerous among farmers of late than they were 20 or 30 years ago. I attribute that to the high renting of land under new leases, and to the distress which follows such a state of things. Bad seasons, no doubt, have had their influence during the last two or three years. I may mention that this very autumn we had a letter intimating the right of a landlord to get payment of some rye-grass seed which we had received from one of his tenants, who had got manure from us in the spring, and given us the rye-grass seed towards the payment of it. The landlord intimated that his tenant was in arrears, and claimed the price of the rye-grass seed. The tenant was a very respectable man, but we had to show him the landlord's letter. He told us he was only in arrear about £38, and that the landlord was quite secured in that from a railway which was going through his farm, against which he had a claim for a much larger amount, over which the landlord had control. The result was that, in about a month, the tenant came to us with a letter of apology from the landlord, expressing regret at having taken the step which he did, and asking us to settle with the tenant. The tenant explained to us that he had given up his lease, paid his rent, and left with a good deal of money in his pocket.

To Sir W. Gibson Craig.—We are amongst the largest seed merchants in Glasgow. Our dividends on the £2600 which I have mentioned would not amount to £150. This loss was from tenant-farmers alone; we have suffered other losses from merchants. Of the £450,000, a large sum is composed of cash transactions, involving no risk; subtracting those transactions, which are gone into and paid at the time, or within a few days, the amount on which the risks are taken is very greatly less. These cash payments were made by farmers, but only a portion of the £450,000 were transactions which went into our books, and represented the

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sum corresponding to the £2600. The cash transactions frequently imply payment at the time of the purchase, and don't go into the books. Our losses have been increasing of late years. I cannot compare them with the losses in other trades; but some trades which have heavier losses get correspondingly high profits. We are very cautious in our dealings, and we never go from home soliciting orders; but, with all our care, the result is as I have stated. In a business competing as modern businesses do in some lines, much heavier losses would be shown. We suffer losses from others than farmers; but, in the case of a merchant becoming bankrupt, we have the estate rapidly and correctly wound up. We have some influence in the sequestration, and the whole subject is divided equally. We rank *pari passu* with the other creditors, and the result is much higher dividends. In mercantile bankruptcies, there are always considerable stock and debts, which become the property of the creditors generally; but, in the case of a tenant-farmer, there are generally no effects beyond what satisfies the landlord. I have here the report of a bankruptcy examination which took place the other day at Greenock, and it is a good illustration of the cases of bankruptcy with which we have been familiar. 'The bankrupt was a farmer at West Kilbride, parish of Kilmalcolm. *Present*—Mr David Rose Crawford, writer, Mansion House, Greenock, agent in the sequestration. The bankrupt deponed that he entered on the farm at Martinmas 1856, with a capital of £900, and stock to the value of about £200. The capital was all expended on the farm, as also £200 borrowed from the City of Glasgow Bank. The stock on the farm had been attached by the landlord, and sold for the current year's rent—£130. He did not think that the crop and stock would more than pay the rent and expenses. He attributed his bankruptcy to a too high rent, to £400 spent in reclaiming land, £100 in fencing the land, £200 lost in erecting a steading, and to losses in bad seasons. His liabilities amounted to £176, 13s.; and the assets, subject to the landlord's hypothec, to £166, 10s.' I know nothing more of the case than is stated there, but that is a fair specimen of the result when we deal with bankrupt tenants. Apart from the preference which the landlord has, a tenant ought to be a very safe customer. There should be less risk with him than with merchants; because, if he farms at all, there must be something in his hands, which a merchant need not of necessity have. The statement of our losses, which I have given, is a very rough estimate. The £150,000 worth of commodities which we sell in a year are not all to farmers, whilst the losses I have mentioned are all losses by farmers.

To Mr Hope.—I cannot tell exactly the amount we have sold on credit. A great deal of the manure we sell is paid cash. Our seed trade is, generally speaking, a credit trade.

To Sir W. Gibson Craig.—In the case of seeds, we invoice without stating terms; and the practice is to render our accounts from Martinmas on to Christmas, and many of them are paid in March. As a rule, we don't get bills from our customers. I cannot see why the landlord should have security, which other persons trusting a tenant have not. I think he is the surest man in his transactions, of any class of the community. He parts with his land in one sense, but subject always to the condition of the punctual payment of the rent. If the land be that by which the landlord lives, he has the choice of letting it, or of retaining it in his own hands. If he takes the more convenient and profitable way of handing it over to a tenant, I cannot see why the law should protect the strong party against all possible risk, while, in regard to other transactions which are much more exposed to loss, there is no protection. A house proprietor parts with possession of his house till the rent is due. I don't see that he should have any security. The argument for security should be stronger in this case; because it does not follow that a man who takes a house at £50 rent need have £50 worth of furniture in it, whereas, in the case of land, it is totally different. No man, who is properly selected, can take a farm without having, at the very commencement, a great deal more than one year's rent; and he cannot withdraw from the land that which every farmer puts into it at the very threshold of his lease; besides, he has stocking and implements, without which he cannot carry on. I do not wish the landlord to be put in a worse position than other creditors, but in the same position. *Q.* The landlord can only demand his rent at Whitsunday or Martinmas; but, if the law were abolished, is there anything to prevent a manure

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dealer who has a suspicion of a tenant, from insisting on his account being paid before the term arrives at which the landlord can demand his rent?—*A.* The landlord's debt is a liquid claim on stamped paper, similar in power to a bill of exchange. The merchant who sells on open account, cannot bring the law to bear on his debtor without considerable delay, without the consent of that debtor. The landlord, who has the power of selecting his tenant, and who gives him credit for only six or twelve months' rent, needs no other security than the merchant who enters into a transaction with him on the same terms. We sell goods on a six months' bill frequently; and, if our debtor is at all doubtful, we prefer a six months' bill to an open account, because we can have diligence on it at once. *Q.* Is there anything to prevent merchants from dealing with tenants on three months' bills, and exacting payment of these when they come due?—*A.* Nothing; but it is not the practice. If these bills were paid before the landlord's rent was due, so as to make it doubtful whether he would get his rent, he could take his payments quarterly or in advance. Land would easily let in this country, even if the landlord asked the rents in advance. The person who has a fixed term of payment is in a much better position than those who deal on open account. For my own part, the moment I felt that I ranked equally with the landlord on the tenant's estate, I should have no hesitation in extending my credits, and I would have far less fear of the result. If the landlords had not the preference which they at present enjoy, I should be much more liberal with my credits. *Q.* In all your long experience, you never had to repay to a landlord the price of any grain which you bought from a tenant? —*A.* No; but on one occasion we wanted to purchase a quantity of hay upon a farm in the neighbourhood of Edinburgh; and, as we were then supplying the cavalry at Jock's Lodge with hay, we wished not to have delivery at once, but to let the hay remain on the farm till it was convenient for us to remove it. The farmer would only sell it for a money payment, and we raised the question to him of the landlord's power over it. He went to his landlord, and obtained a letter, which I saw, relieving the hay of his hypothec, upon which we paid him the money. In making these inquiries, we humbled the man and pained ourselves. Very lately we were creditors to the extent of £180 of a tenant-farmer, who took a farm at the rent of £700, having been preferred to it because he was the highest offerer. He continued in the farm only so long as to reap one crop, and he spent £1500 or £1600 on lime, manure, repairing the houses, etc. Then those from whom he had got goods pressed him for payment, and his crop was quite insufficient to pay the rent and their claims. The landlord was anxious that the creditors should carry on the farm, as it was an awkward time of the year to let it, and there was ground to hope that it would yield 10s. or 12s. a pound. The farmer executed a trust-deed; the trustee paid a year's rent, and found security for that of the following year. Things were carefully managed, and the bankrupt did all he could to assist; but the result was most unfortunate, and the creditors have received nothing, the state of accounts at present showing that there will be barely enough to pay the trustee's commission and expenses. The farm is now let £150 cheaper. When the crop came to be sold, the factor intimated that, under a clause which was not in the lease, but was only held as repeated in the lease, and which the tenant had never even seen, he claimed a right, on behalf of the ensuing tenant, to the crop at a valuation. The creditors were very reluctantly obliged to succumb, and the crop was made over at a valuation to the incoming tenant. That farmer's tradesmen's accounts are still unpaid. The toll through which he drove his manure is not paid, and the toll-keeper is his creditor for £40. We lost £180, principally for manure.

To Mr M'Lagan.—That man was the son of a practical farmer, and he had previously carried on his father's farm. He was a very good farmer. He offered too much for the farm, and having been selected as tenant, the public and the tradesmen all round suffered. He had some capital, but not sufficient. The great fault of the existing law is, that it keeps back people who have capital, and would be willing to embark it in land, but for the competition brought to bear against them. It deters people with capital from coming forward, because men of insufficient capital, offering the largest rents, are preferred. I have three cases in my eye at present, of tenants of capital and of skill who were outbid for their farms. They went on for two or three years anxiously looking for other farms, and they offered legitimate rents for a great many, but the result was that, after a number of disappointments, they emigrated.

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To the Chairman.—I think land, to be well farmed, implies a much more liberal application of capital than is the practice in my district. I farm 120 acres of my own property in Renfrewshire, and I see there the great advantage of a liberal outlay, and how much others suffer from want of power in that way. I think it follows that landlords would ultimately be greatly benefited by a free-trade system.

To Mr Fleming.—I think farmers, as a class, are becoming poorer. I attribute that indirectly to the law of hypothec. I think they have been continued in farms that their means were not commensurate for. They wanted the power of accommodating themselves to the altered system of farming which is necessary to make farms profitable. Even if the law were abolished, I am of opinion that there would still be great competition for land. Farming is a favourite occupation; and, as the public get richer, there will be an increasing desire to have land. I don't think it necessarily follows that, if the law were abolished, there would be prepayment of rent. I think it would be for the landlord to consider, whether it would not be better for him to give a fair credit to the tenant for his rent, thereby increasing his power of profitably treating the land. A great many of the present competitors for land would not be selected as tenants. The landlords would be more careful in selecting tenants with capital. Many landlords are most careful in their selection at present; but, where estates are managed by lawyers, the amount of rent offered supersedes every other consideration. I think lawyers are not practically acquainted with those things which are necessary for the profitable conducting of a farm. They make mistakes as to the men that should be selected. Many of them don't know what capital is necessary for the proper cultivation of a farm under present circumstances. I think, in the case of an arable farm, £8 to £10 a Scotch acre is necessary for a man to go into it with comfort. I think that would be sufficient for a farm in Ayrshire, or in East Lothian. If the rents were to be prepaid, he must have more. I think a man might safely enter on a farm of 100 Scotch acres with £900 of capital; but I am not so well acquainted with the mode of culture in East Lothian. In Ayrshire, I think £8 to £10 an acre is sufficient for a regular arable farm, in connection with the credit which the tenant gets from his landlord. I think it is quite legitimate to purchase manure on credit. Men in business get on, and come to be very wealthy, who have begun with very small means. If a man is master of his means, and careful as to the kind of bargain he makes in regard to his land, it does not follow that he should pay cash for everything that he buys. If the law were abolished, I think I would be less guarded in my dealings with tenants than I am at present. There would be no necessity for the particular kind of watching that there is at present. Our present reluctance to deal with tenants proceeds from the power which we know is possessed by the landlord, and which practically sweeps away the whole subject when any difficulty arises. We charge a price which compensates us for the risk we run. The abolition of the law would create more competition, and decrease our prices. The same watchfulness and guardedness in dealing with farmers would not be necessary. That would be a great benefit to the community generally, because farmers would then be able to buy their goods on better terms. At present, farmers with insufficient means feel the greatest delicacy in asking credit from merchants, if they are the least behind with their rents. They feel that it is putting these merchants in the position of securing the landlord's rent. As a rule, the districts I am acquainted with are not farmed so well as they were a dozen years ago. I attribute that to the poverty of the tenantry in a great degree, arising from over-rented land, and insufficient means to farm according to the modern system. I don't think over-renting is the result of the law of hypothec; but an abolition of the law would introduce a different class of tenants, who would work the soil more efficiently, and the landlord would be compelled to exercise greater prudence in selecting men with capital. *Q.* Where a landlord prefers the highest offerer, does he not generally prefer him because he has capital, the defect being that he has no skill?—*A.* No; I don't think that is the rule. I don't think landlords or their factors feel a necessity, under the existing state of things, to satisfy themselves upon all points, which they would find it necessary to do, if the law left them to their own resources, and ceased to keep its arms round them. I have seen instances of very improper parties selected for farms in my neighbourhood. I cannot say that their characters were known to the land-

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lord or his factor, but the means of information were within their reach. I don't say they willingly select such persons, but they do not feel the necessity for obtaining that knowledge which they would feel it necessary to have if the law were abolished. I cannot see any distinction between the case of a farmer who lets his land for 19 years, and the case of a merchant who is not bound to enter into more than one transaction. Practically, I think, the landlord, who becomes the creditor of the tenant for six months' rent, has less need of protection than the merchant who gives his commodity on six months' credit. The land is almost always greatly deteriorated before the tenant comes the length of bankruptcy. They go on too long, and great injury is done by that. The tenant may deteriorate the land certainly, but he may convert the merchant's property into money and dispose of it. The merchant is not bound to enter into another transaction; but if the tenant does not pay his rent, or farm his land properly, the landlord can protect himself by putting an end to the lease. In those cases where the land is returned deteriorated to the landlord, the cause is the landlord's own act in permitting the tenant to continue in possession, with an imperfect system of farming and rents in arrear. There are clauses in leases which are an absolute protection to the landlord if they are enforced, and the landlord has it in his power to enforce them.

To Mr Curror.—I buy my grass seeds at Irvine, Beith, Kilmarnock, and Ayr. In making purchases, we guard ourselves as much as possible by inquiry; but I have been frequently restrained from buying rye-grass seed from information which I had as to a person from whom I intended buying being in arrear of rent, and in difficulties with his landlord. In the cases in which I got small dividends, as I have stated, the landlord generally got his rent in full. In many of these cases, the farms were given back to the landlord in a much worse state. In our district, the cultivation of land has been falling off for ten years. The farms in Ayrshire range from 50 to 140 acres as a rule. I don't think the small tenants are so bad as the larger tenants. Some tenants in Ayrshire are in a very bad state at present.

To Mr Hope.—There are not more farmers due us money at present than there have been within the last few years. We have been restricting our credit trade. We think the risks are greatly increasing; and at last balance we had fewer outstanding debtors than the previous year on that account. We generally sell manures from January till May. A portion is applied to the potato and turnip crops, but the bulk of the guano sold in Glasgow is applied to white crops and grass. In our manure invoices, we state that our terms are three months' credit, or 5s. per ton discount for cash; that is, about 7 per cent. per annum. I think the farmers in our district are not keeping pace with the times.

To Mr Carnegie.—Our transactions amount to about £150,000 a year. The £2600 is the loss by farmers, but we also lose by others. Part of the £150,000 worth also goes into the hands of intermediate merchants, ultimately to be sold to farmers; but the merchants, with whom we deal, stand between us and the farmers. The £2600 relates not to that class, but to the farmers who deal directly with us.

To Mr M'Lagan.—The bad farming in our district has been more marked during the last five years. No doubt these have been bad seasons, and the capital of the tenants has been reduced in consequence; but these men cannot stand a series of bad seasons. In letting land, I think the necessity of a tenant living on capital for a year or two should be considered. I doubt if a tenant, entering a farm with only £8 or £10 an acre, could stand a succession of bad seasons. That may be insufficient under the law of hypothec, but I think it would be quite sufficient if the law of hypothec were abolished. The tenant would then easily get assistance from his friends. If landlords insisted on forerents or prepaid rents in consequence of the abolition of the law, I should think the tenant's capital must be increased; but that would be counterbalanced by the facilities which the tenant would have for obtaining credit from his banker or friends. I think bankers would look on a tenant-farmer as a more eligible debtor than merchants generally, if there was no law of hypothec. —*Q.* Do you think a landlord, as a prudent man, should give a tenant a farm for 19 years without security?—*A.* A landlord has that in his power which no other person in the community has. The letting of land should be a commercial matter between the parties contracting; and I think there is

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less hardship in a landlord giving a tenant credit for a half-year's or a whole year's rent, than in the case of a merchant giving him credit, seeing that he has the power of acquiring more perfect knowledge regarding the tenant than any dealer or merchant has. A merchant has far less means of knowledge. The competition for land is so great, that the landlord may have the most ample means of satisfying himself as to the character and skill and capital of a tenant. We are sometimes disappointed in persons whom we trust; but if a man came to me for the first time asking credit, I would expect him to put me in possession of the means of obtaining thorough information regarding him. I am clearly of opinion that landlords don't feel the same necessity for making inquiries that merchants do. I think landlords don't make inquiries, because the necessity for their doing so does not exist. It is in the power of the landlord to make his lease so that he cannot be subjected to the hardship of having his land badly farmed. I think one great reason why farmers have been becoming poorer of late years is, that the recently taken lands have been over-rented. I scarcely know an instance in all my experience of a man leaving a farm at the conclusion of his lease possessed of more capital than when he entered it. I think it is the exception that they have educated their sons, and set them up in business. They have educated their children as farmers' children certainly, but not as they would have done had their capital and their industry been devoted to any other profession. I mean that, as a class, they are worse paid for their industry than other classes of the community. That arises in a great degree from the law of hypothec. It also arises from the competition for farms. There would be a competition without the law of hypothec; but it would be a competition of a different kind, and with a different class of men.

To Mr Carnegie.—I have sustained inconvenience from farmers' sequestrations not being made public. I have supplied commodities more than once to parties under sequestration, in ignorance that they were so. I think it would be an advantage if these sequestrations were published.

(31.) Mr CHARLES GEORGE SHAW.

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To the Chairman.—I have been in business as a writer in Ayr for 12 years. I am in partnership with my father, who has been in business about 50 years. We have the charge of the Marquis of Bute's estates in Ayrshire, and other estates, comprising in all about 200 farms, besides acting as law-agents for some other proprietors. We are joint-clerks of supply for the county of Ayr, and come a good deal into contact both with landlords and tenants in the county. I have made an abstract from the valuation roll of the county, which gives the following results:—Farms not exceeding £100 a year in rent, 763; farms rented between £100 and £300 a year, 1467; farms rented between £300 and £600 a year, 238; farms rented over £600 a year, 25—total number, 2493. The return does not include small possessions. I think the law of hypothec is beneficial to landlords, and to the majority of tenants in our county. It is most beneficial to the smaller tenants, but to some extent it is so to all tenants. It encourages the present system of leases between landlord and tenant, and enables deserving and industrious men to take farms, who might otherwise be unable to do so. It also enables landlords to be more indulgent to their tenants than they could otherwise be. My opinion is, that, if the law were abolished, landlords would cease to give leases, and would adopt the system of tenure from year to year. They would also be more likely to treat the rent like a bill, and to exact payment of it whenever it became due. The general entry in Ayrshire to an arable farm is at Martinmas, and the first half-year's rent is paid next Martinmas. To stock farms the common entry is at Whitsunday, and the first half-year's rent is paid at the first Martinmas. If the law of hypothec were abolished, I think the landlords would require their rents to be paid sooner. I don't think the smaller class of tenants could pay forehand rents. It is difficult to say what would become of their farms. Probably they would be put together; but many of them are of indifferent soil, and there would be considerable difficulty sometimes in getting tenants. Generally speaking, these small farms are occupied by industrious men who have originally risen from the position of labourers, or are sons of small tenants, and they and their families carry on the farm. A good many men in

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that position have been successful, and have gradually got on, and now hold pretty large farms. My opinion is, that they could not have done so but for the indulgence which the law enables landlords to give them. I find that, in the course of the last 20 years, we have had occasion to apply for sequestration against tenants 75 times. A part of these were against mineral tenants, and several of them were repetitions of sequestration against the same persons. The number of agricultural sequestrations may be stated at 60. The majority of them were in cases where we had not the management of the estates, and were merely employed as agents. Regular sales, under the authority of the sheriff, are emphatically rare. Out of the 60 cases, I don't think there have been ten sales. In cases where there was no sale, the tenant came to some arrangement with his creditors. In the last case which I knew, the creditors got 14s. a pound. That was one of the smaller farms; but I think there are a good many cases where the dividend is small to the outside creditors. The landlord may get his whole rent, but he is generally a considerable loser by the deterioration of his farm. It is always a loss in estate management, if a tenant is sequestrated or rouped off. The landlord, in all cases that I know of, makes careful and anxious inquiry before taking a man as a tenant; but he may be deceived as to the character and means of the party. In many of the cases in which sequestration took place, the landlords had received a good character of the tenants as to capital and skill; and the necessity for sequestration does not generally arise till the tenant has been some time in the farm. There has been great competition of late years for farms in Ayrshire, but it has been less for the last two years or so. The competition was owing to the high prices obtained about the time of the Crimean war, and people thought land worth more than it has turned out to be in these later seasons. It has been to some extent also occasioned by men without skill coming from other professions. Some of the larger farms were taken by men more as an amusement than anything else; and that was the means of driving out practical men in some cases. In several cases, these men have been obliged to give up their farms; they did not farm well. I would say that they were more deficient in skill than in capital. I should say that they were taken in preference to the practical men, owing to a mistake on the part of the landlord in regard to the skill which they possessed. I do not think that the existence of the law of hypothec has any effect in making landlords careless in such cases. In any case we have had to do with, the landlord never thinks about the necessity of sequestrating his tenant when he is letting the farm. It would be a very bad instance of estate management, and would be against himself very much in the end, if he let his farm looking to the probability of sequestrating his tenant. In some of the Carrick estates the entry is at Martinmas, and the first rent is due at Whitsunday following. I think there have been fully as many sequestrations in cases where the rent was forehand. I have known evil effects to occur from tenants entering on farms and farming with borrowed money. In such cases the creditor is apt to take an undue advantage of the farmer, by getting labour from him for no remuneration, or farm produce at less than the market rate. I have great difficulty in saying whether, if the law of hypothec were abolished, the landlord would find it necessary to exact forehand rents. I don't know if he would insist on any other security. I think a cautioner would be a very bad thing on a farm. If the right of hypothec were abolished, the landlord would be more apt to insist on the rent being paid to a day than he is just now. I think that part of the law, which permits the landlord to follow grain sold in a sample market, is unfair to the tenant and to the grain-dealer. I think sample markets should be put on the same footing as bulk markets; but I would not extend that modification of the law to private sales. The competition, which took place so largely in Ayrshire some years ago, was chiefly for the smaller class of farms—farms under £300 a year. I have not been able to make up my mind that the law of hypothec affects the competition for farms much. When produce is selling high, there is a great demand for farms. This year there has been no demand for small arable farms. We never had a case in our practice in which grain was followed, and a repetition of the price demanded. I don't think that any evil effects have flowed from agricultural sequestrations not having been made public. I don't think the publication would affect the landlord, but I think it would be disadvantageous to the tenantry, because a tenant is often

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sequestrated, and still goes on and is able to pay everybody. The mercantile community in the district know of the sequestration, though it is not published. I never heard of a case in Ayrshire, in which merchants went on dealing with a tenant who had been sequestrated, in ignorance of that fact. A great many tenants buy seed and manure for ready money; and a great many do so on credit. I think they ought to deal for cash. I don't think that the proper class of tenants find any difficulty in getting advances from banks when they require them. I don't think the law of hypothec affects their getting these advances when they are deserving of credit.

To Mr Carnegie.—The existence of the law of hypothec enables landlords to give indulgence to their tenants. I don't think that is done at the expense of the other creditors. If a tenant goes on losing more money, it is true his general creditors will lose more than they would have done if he had been brought up at once; but, in the majority of cases, I think the estate has turned out better by a certain time being allowed, than if everything had been realized at once. The creditors are not consulted in the matter unless they become bound for the rent, and they very often do that. I have no practical experience in managing land in Carrick. I don't think there is any difficulty in letting the farms there when they become vacant. *Q.* You never heard that there was greater difficulty in getting a tenant for the fore-rented farms in Carrick than for the back-rented farms in the other parts of the county?—*A.* No; but the custom there is not to collect the rents before August at least, though they are due at Whitsunday. I have no strong opinion against the publication of sequestrations, if it is thought advisable for the interests of the general public. If any change should be made on the law, existing leases should not be interfered with. I do not see that it is practicable to restrict the landlord's claims to one year's rent; because, when the rent is due at Whitsunday, he does not know till rent-day whether it will be paid, and by that time a new crop is on the ground, and everything necessary is done for the current year, and it is not possible to let the farm to another tenant. It would be very hard to put the landlord in the position of having to give credit for the current year without security. In the event of an alteration of the law, I do not think there should be any statutory irritancy of the lease. That should be left as matter of contract.

To Mr Curror.—So far as I know, the farms in Carrick bring as good a rent as back-rented farms. I have no doubt that by degrees the system of forehand rents could be introduced into the rest of the county; but I think it would be disadvantageous to the tenants to introduce a new system. I think it is likely that tenants, who are in such a condition that it is necessary to sequestrate them, would not be carried on so long but for the law of hypothec. I am sorry to say that a great many Ayrshire tenants are in a very poor way; but I don't think that applies more to the small ones than to those paying £300 of rent. The smaller tenants don't live better than grieves; but they are their own masters, and their families assist them in carrying on the farm. A great many of these are dairy farms.

To Mr Fleming.—I think it would be unfair to the landlord to make his hypothec apply to only one year's rent; because, even in the case of a forehand rent, which should be paid at Martinmas, it is too late to let the farm if it is not then paid, and the tenant must be allowed to go on for the current year, so that the landlord would then have no security for what was due at Martinmas. He must either have his preference, or have his farm back; and if the farm is to go into new hands at Martinmas, steps must be taken for that purpose some months before. In the interest of landlords, I would not object to the publication of sequestrations. I would not alter the law as to the landlords carrying out warrants of sale. The creditors have it in their power to force it to be carried out.

Tuesday, January 10, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR HOPE.
HON. MR CARNEGIE.	MR M'LAGAN.
MR MURRAY.	MR CURROR.

(32.) MR WILLIAM HOBKIRK.

William Hobkirk.

To Sir W. Gibson Craig.—I am a corn merchant, and have been in the trade for 25 years,—10 years in Hawick, and 15 in Edinburgh. I have never suffered any personal inconvenience from the law of hypothec; though I might have done so in one case but for being elected trustee on a bankrupt estate, by which I got 5 per cent. for collecting the debts, and that paid my account. For 16 years my brother and I had a good retail trade among farmers, particularly in Dumfriesshire and Roxburghshire. For the last seven years we have been exclusively confined to the wholesale trade, as importers of foreign grain. We buy chiefly in Prussian ports,—Dantzic, Konigsberg, and Stettin; also in Danish ports; and in Liverpool we buy a good deal of grain from America. Latterly we have not bought in the home markets. I was brought up among farmers in the south of Scotland in my younger days. Under the law of hypothec, I think agriculture has thriven in this country as it has thriven in no other country; and, though there are one or two objectionable points about it, such as the power which it gives to the landlord to follow grain, still that power has been used so leniently and so sparingly, that I think it would be safe to leave it in the hands of those who have used it so well. I think the landlord is well entitled to a preference over other creditors for his rent. I would rather not have any modification of the law, but I think there is a very general feeling in the country for a modification; and therefore I should have no objection, if the power of the landlord as to following grain were limited in point of time. I also think it is hard that a farmer putting his sheep on another man's land to eat his turnips should have to pay twice for that. Six months after the crop is reaped is the minimum of time that I would allow the landlord to have a preference; but I don't profess to be a judge of that. The law has wrought well as a general rule, and I think landlords are well entitled to the preference they have. A proprietor who ties up his capital for 19 years, at the very low interest of 3 per cent., which is about the rate, taking off taxes, is in a totally different position from the trader, who, by turning over his money every two months, has 17 per cent. more in the shape of profit than the landowner has. I am certain that I am inside the mark, when I estimate the general average of the profits of traders in single transactions at 3 or 3½ per cent. I also think that the average credit allowed by traders is not more than two months. The wholesale corn trade in Leith has long been three months, but it has now been reduced to two months. On the whole, I think traders generally, in their dealings with farmers, turn over their money six times every year, and they have something like 3½ per cent. on each transaction, so that they have 20 per cent. for the same capital in 12 months; and I know many traders who have turned over their money oftener, because many of their transactions are settled by bills, and, if they are bills of good men, they can be turned into money in a week. I think, therefore, that the trader, who has not only 3 per cent. like the landlord, but 17 per cent. more of profit in the 12 months, is in a different position from the landlord. *Q.* Have you heard many complaints that home traders who deal in guano and grain do an unprofitable business?—*A.* No. I think the great drawback that all traders suffer from consists in losses from bankruptcies. I myself have lost, since I began business, almost as much as I have gained; but these losses are so easily guessed at that one can almost tell what his losses from bankruptcy will be on an average of years. I had it from one of the oldest established manufacturing firms in Edinburgh, that their losses had been so near £1000 a year, that they

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laid their account with losing that sum. I don't say our profits are calculated to meet these failures, but they are such that we can afford the losses. But for these failures in business, our profits would be far too good. Another great drawback is, that thousands of persons commence the trade without sufficient capital; and I believe that there are ten men in the commercial community who begin without sufficient capital to one in the farming business that does so. I have been a party to offering for 20 farms within as many years—looking over them for friends; and in every case the most special inquiries were made by the landlord or the factor as to the offerer. Special references had to be made to the banker of the party, or to the factor of some nobleman or gentleman. The low prices account for the difficulties into which farmers have got for the last three years. I believe many have been paying their rent out of capital to a considerable extent. From a circular printed every year by the curators of the Edinburgh Corn Exchange, giving the quantity and the price of grain sold, I find that, while a farm taken at a grain rent for ten years previous to 1862 would have been rented at £1000, the rent for the last three years would have been a shade under £700. I think it is a manifest fallacy to say that farmers who are back-rented are working on their landlords' capital. That will be obvious, if we consider how soon a landlord farming the land himself could pay his rent. I maintain that a farmer with a Martinmas entry has nothing but outlay for 12 months. No doubt he may realize something in July or August from grass and hay, and in September from potatoes; but that is peculiar almost to the Lothians and Fife. In Roxburghshire and Berwickshire, the farmers sell no grass, very few sell hay, and they grow no potatoes except what they require for their own use. Their turnip-crop is eaten by their own sheep and cattle, and I don't think they realize anything on their cattle till the spring months; so that, taking the general average of agricultural farms, I don't think any farmer has made even the half-year's rent 15 months after a Martinmas entry. In the climate of Scotland, it is not profitable to thresh grain, till it has got the frosts of winter or the winds of spring. Again and again I have got barley and wheat from Lincolnshire in the finest condition before the new year, while no brewer could malt Scotch barley without kiln-drying it. All round Edinburgh, and even in East Lothian, not a third of the grain-crop is threshed at this time by judicious farmers, and last season was a very fine one. I think it a great hardship to the tenant to be obliged to sell to meet his Martinmas rent. The present system works very well, both for landlords and tenants. Even tenants who are back-rented are really paying ready money. The farmer has a great deal more to raise off the farm than the landlord's rent. To keep the farmer safe, an agricultural farm should produce three rents. Take a farm of 300 or 400 acres in the Lothians, at a rent of £1000. After the farm is fully stocked, it will require one year's rent to pay human labour, food of horses, tear and wear of implements. It would require another year's rent to provide manure, to keep the tenant's family, and to pay the interest on his capital. I don't allow him any salary, because I put the maintenance of his family against that. I believe £500 is the lowest sum one can calculate for manure; and I have known farms of about 200 acres on which not less than £600 or £700 has been spent in the shape of solid manure. The third rent goes to the landlord. All that is seldom realized before Candlemas, 15 months after entry. Even if the law of hypothec were abolished, I am pretty certain that forehand rents would not be introduced; but, if they were, the effect would be to reduce the tenantry a stage lower. A £3000 man, who could take 300 imperial acres now, would be obliged to take 200 acres. It would just put them down a step in the ladder. It is a delusion to suppose that it would lessen competition; because there would be plenty £4000 men to occupy the place at the top. Money is so plentiful, that the difficulty is to find proper investments for it; and I think it would be a bad thing, if competition were lessened, which indeed is not so great among farmers as it is in other commercial professions.

To Mr Hope.—Among judicious farmers in the Lothians, I don't think above one-third of the grain is threshed at this season. The case is different with farmers who require to consume their straw. They thresh it as they need it. I am aware, that on well-managed farms almost the whole straw has to be converted into manure before May; but May is a long time after January. I referred specially to farms where straw is sold. I am aware that no straw is sold in East Lothian. I suppose, as soon as the cattle come into the courts, the

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farmers thresh pretty regularly till March or April. When a farmer sells seed-corn on credit, I think he ceases to be a farmer proper, and becomes a commercial speculator. I don't think farmers have occasion to sell anything on credit. I don't see that the law of hypothec benefits landed proprietors much more than tenants. Perhaps the smaller class of tenantry in the north and west of Scotland are as much benefited by the law as the landlords. I entertain a strong conviction that the landowner could secure himself as well almost by private contract as by the law of hypothec, but every man is benefited by having the interest of his money secured. I don't see how in justice the law can be abolished as to farms without abolishing it as to houses in towns, and abolishing also the preference which servants have over other creditors for their wages. If the hypothec which landlords have over furniture were abolished, I believe the tenants would be the first to ask the law to be put as it was. I think credit among the working classes is a great curse. It would be a great benefit, if their rents were paid monthly in advance, but they cannot do it. As to the origin of the law, I believe all payments were originally payments in kind. In many cases the landowners had to supply the seed, and I believe it was on the whole a just and equitable law. If the law were abolished, I think the landlord could make a bargain with his tenant in this way: I will let you a farm of 300 acres on condition that you grow for me 20 acres of wheat, 20 of barley, and 20 of oats; you will provide the seed, cultivate the crop, reap it, and stack it; and, to reimburse you for your labour, I will give you a field of 30 acres rent-free, which shall be considered full equivalent for your trouble; and at Candlemas, after reaping, it shall be in your option to pay me £600 in lieu of my share. The acreage to be grown on the landlord's account might be kept so large, that the farmer would always accept the option of making a money payment. There are other ways in which the landlord might protect himself. He might, for example, hold a note of sale, which would cut out all other creditors. Of course prepayment would make the landlord secure; but I don't think rents would be prepaid. Postponing the payment of rent of course enables farming to be conducted with less capital, than would otherwise be necessary. I don't think the law encourages competition for farms. I think there would be just as much competition, if the law were abolished. My opinion is, that the outcry against the law of hypothec is upon the part of a certain class of farmers, who wish a monopoly of the profession of farming; and, in asking an abolition of the law, they are asking class legislation in favour of the very class least needing it. I think the alteration from payments in kind to money payments has been of more advantage to the tenantry than to the landowner. So far as my experience goes, landlords do make particular inquiries regarding the means and capabilities of tenants before accepting them. I think it is a libel on landowners and their factors to say that they are careless in that respect. *Q.* Do you know any cases where tenants have taken farms, and, in a year or two, have had to give them up?—*A.* I knew one man, a tradesman, who took a farm on the Border without any capital at all; and I believe there are cases where tenants get into farms without sufficient capital, but in these cases the landlord or the factor has been deceived as to their means. I knew one case where a very worthy farmer took a farm, and expended all his money the first two years in improving it. He was put out, and another got the farm, and has made a good job of it. In such cases the interests of agriculture do not suffer, but the tenant only.

To Mr Carnegie.—I don't remember whether that farmer became bankrupt. It was thought the landlord was rather sharp with him. I don't think any one lost money in that case, except the poor tenant himself. There is a sort of respectability about the bankruptcy of a farmer, when the landlord is at the head of the concern, that there is not in commercial failures. The first two years that I was in Edinburgh, I was so unfortunate as to have to attend 17 meetings of creditors; and there are many cases in which unjust claims are made. I remember one failure in a provincial town, the creditors of the party being shopkeepers, and farmers from whom he had got grain and hay. It was supposed he would pay 14s. in the pound; but, when the meeting of creditors took place, a stranger attended who held accommodation bills for a considerable amount, and, although none of the other creditors believed that that stranger had ever been in a position to accommodate any one, yet it was impossible to deny the claim, and a dividend of only 2s. 6d. was got. Very frequently, on the bankruptcy of traders, we find parties claiming for having given accommo-

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dation, about the genuineness of which there is great doubt. But my experience is that there is much less of that, if the landlord is at the head of the concern.

To Mr M'Lagan.—I have never been personally connected with farming. I cannot tell what the amount of my dealings with farmers used to be. I used to draw from them in Dumfriesshire about £400 a month. I don't remember having had any losses with farmers, except in one case. I don't think there is much difference between the dividends paid on the estates of farmers and the estates of merchants. *Q.* Would you consider the loss of a corn, seed, and manure merchant to be very great, who sold manures and feeding-stuffs in the Lothians to the amount of £190,000 a year, who bought £75,000 worth of grain, and whose rankings on bankrupt estates were £2400 in two years, of which he received £450 in dividends?—*A.* I think between £900 and £1000 a year on such a business as that was a light loss. For a number of years that I was in business with my brother, we turned over about £100,000 a year, and I am sure our clear losses never were less than £700 a year. My belief is, that ordinary merchants lose more than guano and grain merchants do. In mercantile sequestrations, it is sometimes found that the bankrupt has property, over which he has granted a bond, which very few know anything about. The bondholder there is in the same position as the landlord under the law of hypothec, with this difference, that the landlord's preference is known to all the world, while the other is a secret. I think it would be an improvement, if tenants' sequestrations were published.

To Mr Hope.—I never knew of bonds over the goods of a merchant in mercantile sequestrations; but there are certain granaries, as to the grain in which a note of sale by a merchant or broker is held as proof that the grain has been parted with at the date it bears. I think smiths and joiners, who work for farmers, have the remedy in their own hands. I don't think they can have anything to complain of, while they give six months' credit to tenants. They should render their accounts fortnightly or monthly. It would be a very good thing for landowners, if rents were paid in the same way—quarterly, in advance; but I don't think they will get them in advance. The profession is not so remunerative as to make people advance their capital. There is plenty of capital in the country, but I don't think farming is a good investment.

To Mr Curror.—I don't remember any case in which I lost by a farmer in Dumfriesshire or Roxburghshire. A good number of the tenantry that I dealt with were on the Duke of Buccleuch's estates, and they are generally pretty safe. I don't know whether or not these farms are fore-rented. I never lost money by a tenant, except in the one case I have mentioned. I don't think the abolition of the law of hypothec would lessen competition. It is difficult to say what its effect on rents would be. I don't think I am a judge as to how far the landlord's hypothec should extend; but, if it is to be altered, the greatest length of time I would give him would be twelve months, and the shortest period six months after reaping.

(33.) Mr ALEXANDER GEEKIE.

Alexander Geekie.

To the Chairman.—I am the proprietor of Baldowrie, in Forfarshire. I am also tenant of about 120 acres, for which I pay about £1 an acre. I farm about 1100 acres altogether. I have been engaged since 1835 in the practice of agriculture,—in Forfarshire and Perthshire. My term of entry to the farm of 120 acres was Martinmas, and the first rent was payable at Candlemas twelvemonth. That is the usual term of payment in Forfarshire. The postponed rent gives the landlord a claim on the crop for one year's rent, and on the stocking for another year's rent. I think that is rather too great a preference, because the stocking is not put there by the landlord. Supposing the entry at Martinmas, I think the first rent should be payable at Whitsunday following, and the next at Martinmas; but I would allow the proprietor a right of hypothec three months beyond these terms; in that time he could accommodate his tenant, or carry his hypothec into effect. I think the proprietor is only entitled to a hypothec over the crop, but I don't think it signifies much whether he has it over the stock. It never can interfere with any other creditor, because the crop is always worth more than a year's rent. That is the only modification which I would suggest in the law. I don't see that there is any call for any

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further modification. *Q.* Would you continue to the landlord the right of following the crop?—*A.* He gets his rent for the crop when it is on the ground or farm, and therefore he does not require to follow it.

To Mr Murray.—There is very little sold before Martinmas. It would be a glaring thing for any man to sell his grain-crop before Martinmas. *Q.* But might not the tenant sell it in the three months which you give him after Martinmas?—*A.* But the proprietor has power to pull him up at Martinmas, and there is the green crop to consume, so that it is almost impossible for the tenant to have carried off everything in the three months. But I don't think it would signify much in practice, though the landlord had the power to follow the crop, when it was necessary to do so for one year's rent. Collusion would likely have so far existed. I certainly would not allow the tenant to sell his grain privately on the ground, because he might sell his whole crop in that way. It ought to be a *bonâ fide* sale in a public market.

To Mr M'Lagan.—I know that in the neighbourhood of Edinburgh potatoes and hay are sold off in the summer; but the grain crop would pay half a rent. I don't see any objection however to allow the hypothec to cover the whole stocking, for in practice it would not signify anything, and it would give the landlord a double security. In the Highlands, it would be as well that the landlord should have a hypothec over the stocking, because there is not much grain grown there, and the stock might be sold unknown to the proprietor.

To the Chairman.—I think sale by sample in open market should be put on the same footing as sale in bulk. My principle is to limit the proprietor's hypothec to one year's rent. At present, if a tenant becomes bankrupt, or anything goes wrong, the proprietor comes in for two years' rent, and nothing is left to the other creditors. I know one case of that kind, where the other creditors only got one shilling of dividend. The landlord got his rent, but he got back the farm in bad order. One evil effect of the present law is, that it is an encouragement to tenants to come forward and take land beyond their means, because it gives them a cash-credit, as it were, to the amount of the rent. It enables them to take farms beyond what they have money to stock properly. When they enter, they don't require to pay any rent for 15 months. They go on extravagantly till the rent becomes due, and then they have to sell grain to pay it. I cannot say whether the credit they get from manure merchants has a tendency in the same direction. Manure merchants always take ready money when they can get it, but they are obliged to give credit. If a tenant without sufficient capital had to pay his rent sooner, he would have to take a smaller quantity of land. Some time ago, a banker in Dundee asked me about two tenants whom I knew, and he said 'that confounded law of hypothec stood in the way of his giving them accommodation.' I believe tenants would get advances more easily from banks but for the present law. The law prevents friends from coming forward with assistance, knowing, as they do, that there is nothing for them to fall back upon, the landlord taking all. When a tenant enters a farm, the crop is valued over to him, and, if he can pay for that *bonâ fide*, he is perfectly able to pay the next rent from the crop so valued over; but very often he has to thresh that crop before he can pay for it. I don't see why agricultural sequestrations should not be made public; it would let parties know what they were doing. The publication might check the credit of tenants a little, but I don't think it would interfere with the dividend to creditors. The competition which takes place under the present law raises rents in my neighbourhood to a certain extent, but with fair-rented land I don't think it can have much effect. In some cases it makes people give more rent than they ought to do. The worst of it is, that it makes them take farms beyond their means. That happens almost always in my district. Many have to pay double interest, and they scarcely get above it. It would pay them better to take a third less land. The present system allows them to work the rent out of the growing crop; whereas, if the hypothec were limited to one year's rent, they would require to have the money in their pockets. It enables them to take larger farms, whereas the other system would keep them within their capital. A good many of those, who in my district have taken farms beyond their means, have failed, and a great many must get their rents down. Proprietors can scarcely go on sequestrating them. A great many are in arrears of rent. The dividend got from those who have been sequestrated has been very small. One case I mentioned where one

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shilling was got, and I believe another shilling is expected. Some of the men who failed were not bred to the trade of farming. Most of them were not. They came from towns. I cannot say whether the proprietors were induced to take them, trusting to the security afforded by the present law; but there is no doubt it induced these men to take the farms. One of them had plenty of money, and he is in the farm at present; but he is anxious to get out of it. He offered far too much for it; but he has plenty of means, and that is the reason why he is not allowed to leave it. Of course, the law of hypothec had nothing to do with that; it was his own folly in offering too much for the land. *Q.* Do you attribute these cases to the fault of the tenants in offering too much, or to the landlords being careless in making inquiries?—*A.* I think both are reckless. The tenants get undue encouragement, and the landlords are anxious to get high rents; but there are many farms let at fair rents. I don't think farming is improving in my district. I think there is a want of capital. The change in the law which I suggest must necessarily make a *bonâ fide* entry into every farm, and bring more capital along with it for the cultivation of the land. The tenant who enters at Martinmas must have the crop valued over to him. If he is able to pay for that, he is able to meet every engagement if he has a fair bargain of the farm; but, if he enters on credit, he is half-bankrupt at the very commencement, and trusts to chance for getting out. I approve of that part of the law, which makes the wages of labourers a preferable claim. But for them the land would not be cultivated.

To Mr Murray.—The landlord ought to have a preference for one year's rent, and that ought to be properly secured to him. *Q.* Suppose a Martinmas entry, and the first half-year's rent payable next Martinmas, and the second half at Whitsunday, what preference would you give the landlord?—*A.* You would require to give him a hypothec over the whole stocking, as well as the crop. I don't see how you could give him more than one year's rental there. *Q.* Suppose the tenant sequestrated at the second Whitsunday, the second crop being on the ground, what preference would you give the landlord?—*A.* He would come in for a year and a half's rental; but, if you declared that no proprietor should have right to rank for more than one year's rental on the bankrupt estate, they would look after themselves. *Q.* Suppose a tenant enters at Martinmas 1864, and pays his first rent, which is due at Martinmas 1865, but does not pay his second half-year's rent due at Whitsunday 1866, and the landlord then sequestrates him, what preference would you give the landlord?—*A.* I think he would be a foolish landlord who would make such an arrangement. If he is only entitled to a hypothec over one year's rental, why should he run the risk of losing it? In that case, he must just rank as a creditor for the second half. *Q.* Then you give the landlord no preference at all?—*A.* I give him a preference over the growing crop; and, if he chooses to defer payment of the rental, and allows the tenant an opportunity of disposing of all the produce, that is his own fault—he is allowing the subject to be sold over which he has the hypothec. If the preference is limited to one year's rent, it does not signify even though it were over the stocking. I would give a preference over the stocking, in order to cover the case of farmers in the neighbourhood of Edinburgh, who sell their potatoes, etc., before Martinmas, and of hill-farmers who have no grain—nothing but stock. In the case put, I would not give the landlord a preference for the second half-year's rent, simply because he has allowed the crop to be disposed of, which he ought not to have done. If he had used sequestration for the first half-year, that would secure the whole rental. If he sequestrates the crop at Martinmas, he sequestrates the whole crop; if he sequestrates at Whitsunday, there is nothing to sequestrate. *Q.* Then assuming the tenant to pay at Martinmas, and not to pay at Whitsunday, the landlord has lost his hypothec?—*A.* He has allowed the tenant to dispose of the crop, over which he had the hypothec. *Q.* If the tenant has not paid at Martinmas, he can secure the whole year's rent?—*A.* Yes. *Q.* Is that not an unjust arrangement?—*A.* No; because the crop is then on the ground or farm; it is not sold. If he chooses to defer payment of the rent, and allow the tenant to dispose of all the crop, that is his own act. If he does not look after himself, I don't see that other people should pay for his negligence in creating deferred payments. *Q.* The practical result is, that the landlord is in a worse position, because he has not been more stringent with his tenant?—*A.* It is his own act. I assume that,

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under the change in the law which I propose, the entry would be at Martinmas, and the first half-year's rent payable at Whitsunday; and I would allow three months to the proprietor, so that he could, if he chose, accommodate the tenant, and not allow his right over the crop to cease. I would not interfere with existing leases. If the small class of tenants could not pay at the term I propose, they must just take smaller farms, and that would be better for themselves and their families. Very often grieves take farms beyond their means, and they and their families have to work like slaves, and their children are not half educated as such children should be. Generally their land is the worst managed land in the country. I don't think the tendency would be to throw small farms into larger ones, because there are always plenty of individuals anxious to get small farms. The rent ought to be a little lower, because, when the law is altered, the landlord gets two years' rent in one year; but I don't think the change would affect moderately rented farms. Coming gradually into operation, I don't believe it would tell against the proprietors. I don't see that there would be any harm in having a statutory irritancy of leases, in the event of a change in the law. There might be cases in which it would be a harsh thing to publish sequestrations, but I think it would be only just to do so.

To Mr Carnegie.—If small tenants are not able to take their farms, under the new system, at the expiry of their leases, they have certainly spent 19 years to very poor effect, because all they require to have made is one year's rental. If they have not made that during their lease, they must have had a very bad bargain of the land.

To Mr Murray.—Of course they may have spent their money on their families. Such families are generally far from being extravagant.

To Mr Hope.—In the case which I mentioned, where the tenant paid a dividend of 1s. per pound, he had been more than 15 years in the farm, and his lease was nearly expired. In my neighbourhood the tenantry are in pretty fair condition, unless on the exorbitantly-rented farms, where they have all gone to wreck. A good many proprietors have taken the land into their own hands, because the tenants would not give the rents wanted; but they have generally let them as soon as they could, and at a far lower rent in most cases, but at more than they themselves were making. It is the custom for farmers to take over the crop at a valuation on entering to a farm at Martinmas. They don't pay down the price at the time. They get time to thresh the crop. If they were to pay it down *bonâ fide* at the time, they would be perfectly qualified to go on with the farm; but, if they enter under credit, they must go on under credit. On one estate which I know the custom sometimes is, when a lease is nearly out, to tell the tenant that some one else has offered a certain rent, and that, if he does not offer so much more, he won't get it.

To Mr Curror.—Persons with small means generally offer more than those with capital do. They have nothing to lose. *Q.* Do you consider that landlords, or their factors, are more inclined to take them in consequence of the security which the law of hypothec affords?—*A.* It will make a slight difference, but very little. There are many small farms in Forfarshire, but they are not very well managed. Any of the small tenants that I know would be quite able to go on, so far as I am aware, even if they had to pay fore-rents. I think the present law brings forward more competitors for farms, and leads to more money being offered for them, than would otherwise be done. Land lets a trifle higher in consequence, but I don't think it makes a great difference. A change in the law would not, I believe, make any difference on farms let at a reasonable rent,—not more than the interest of a year's rent.

To Mr M'Lagan.—Taking landlords as a whole, I think they do exercise a fair caution in selecting their tenants. Taking them as a whole, I think they make sufficient inquiry as to the means and circumstances of their tenants. Landlords are perfectly aware that they are secured by the law, and that they never can be losers; but I don't think good proprietors pay much attention to it, and I don't believe a change in the law would make much difference to them. I don't think farming is improving in Forfarshire. I think there is a want of capital, and more capital is required now than formerly. Tenants have been losing money, owing to the low prices of grain; but that is not due to the law of hypothec. When I say that farming in Forfarshire is retrograding, I mean that, owing to the present system of farming, more capital is required than under the old system. Industry told long ago; but now rents must be paid

Alexander Geekie.

from capital expended on the farm as well as from industry. On well-managed estates, the tenants are quite able to go on under a change in the law; but, where there are exorbitant rents, they are not. Farming has been retrograding more on badly managed estates than on others.

To Mr Murray.—The cases which I referred to, where landlords have taken farms into their own hands, are principally on two large estates, and on a third, on which the same party is factor.

To Mr Hope.—Very often higher rents are offered by persons without capital. In some cases, where higher rents were got than farms were worth, neighbouring landlords, whose estates were well managed, felt that they were equally entitled to an increase, and in some instances they got it; but generally they kept their rents reasonable.

(34.) Mr JAMES SCOTT MARSHALL.

James Scott Marshall.

To the Chairman.—I am an auctioneer in Dundee, and have been so since 1845. My business is entirely in the agricultural line. There are two classes of sales, regular and displenishing. There are regular sales of crop, which take place twice or three times a year. For about 60 years bygone, it has been the practice to sell the green-crops in the neighbourhood of Dundee by roup—dairymen, stablers, merchants, flax-spinners, and others keeping horses, pendiclers, and even landed proprietors and factors being the purchasers, the auctioneer collecting and guaranteeing the proceeds. That is the practice on almost every farm within a certain range of Dundee. The new grass for cutting is sold in the end of April and beginning of May, according to earliness, etc.; the growing turnips from middle to end of September; the potatoes during the month of August, or later, according to circumstances. In all crop sales the purchasers have the benefit of the future growth. Their right to the cutting grass ceases from middle to end of October; the turnips to be off the ground from middle to end of March; potatoes by the middle of October. Growing corn, to a limited extent, is also regularly sold on many farms. These sales take place during the month of August, when the crop is full-shot. Purchasers generally have the use of the threshing-mill, and the privilege of stacking up their corn on the farm. Some leases allow so many acres of corn and fodder to be sold—the tenant being bound to drive so much dung on to the farm in lieu; and many farmers sell without any such permission contained in their leases. Credits are given to the purchasers thus:—grass, 1st October; corn and fodder, 1st February; turnips, 1st February, and some 1st April—greater part 1st February; potatoes before holing. All these roups are fully published by advertisements in the local papers, by handbills, and in the case of the grass and turnip sales by circulars. These sales apply to all farms, except very small ones of one or two pair of horses. Where tenants sell off their green-crop in that way, there are in some leases stipulations that they must import manure. They are generally taken bound to farm according to the rules of good husbandry. On the ground of self-interest the greatest publicity is given in these cases, which has the effect of making sales of crop by roup on the ground the most open, public, and straightforward mode of disposal, both as regards the farmer-exposer or the auctioneer guaranteeing the proceeds. There is no bulk market in Forfarshire for any farm-crop; and no bulk market for the wholesale disposal of green-crop exists in Scotland, so far as I am aware; therefore, there are only two modes possible of selling green-crops, viz. private bargain and public roup; and the last mode of sale is the most favourable to the protection of the landlord's interests. In some cases I have been put about by the landlord sequestrating what remained on the ground; but one reason why we have never come into direct collision is, that, where trustees were appointed, they generally arranged with the landlords for the rent. I am responsible for the results of the sales. I sell on a *del credere* commission. *Q.* In what way does the landlord's hypothec interfere with you?—*A.* A farmer may employ me to sell his grass (say crop 1864) in April or May; while all the time the first half-year's rent of the previous crop, due at Candlemas preceding, may not be paid. The farmer may require, and does get, the proceeds to pay seed-corn, wages, or tradesmen's accounts at the Whitsunday term, and the landlord may then sequestrate stock and crop for the rents of both years—the grass included, as

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little will at that time be removed. I would not like to ask the tenant whether his rent is paid, before I undertook to make a sale of that kind. It would be productive of bad feeling, and would injure my business. Suppose I could learn in any other way how they stood, and suppose I found that in no case did arrears exist, still the old difficulty remains, viz., the rent of the crop sold, or about to be sold, is not nearly due, even as regards the first instalment. I once asked a factor how a certain tenant stood with his rent, stating at the same time, that I had recently sold crop for him, and that, if he did not wish the proceeds to get into the tenant's hands, he should intimate in writing that he held me liable; when I was informed that he had no such information to give in any case, and that he held intromitters with the crop were liable for its rent. A firm in Dundee, engaged in the same business as myself, applied in writing to a factor regarding a tenant for whom they had conducted a sale. Their letter was enclosed by the factor to the tenant, who immediately fell foul of the auctioneers. The farms in the neighbourhood of Dundee are let in the knowledge of the practice of the crop being so sold off, and it is in consequence of that practice that such high rents are got. Though rents are high per acre near Dundee, and though I consider Forfarshire, as a county, overrented, I don't think the land in the neighbourhood of Dundee is in reality higher than farms let in the more landward part of the county at a lower rate per acre. I think auctioneers should be either held liable or free by the landlord, on application before a sale. If a preference is still to be continued to the landlord over the crop, it might be made incumbent on me and others to give the landlord, or his factor or agent, notice, say not later than seven days previous to the sale; and then it should be incumbent on the landlord to intimate liability, or he might get power to interdict under certain restrictions. As regards displenishing sales, the landlords look out for themselves, and the auctioneer is not taken at a disadvantage. In some leases the last rent is made wholly payable at Martinmas the same year, and security has to be given for payment at that term, before interference with the crop. I would limit the landlord's right to the stocking, and only for one year's rent, just as in an urban tenement. I sometimes sell spare stock in the spring; but the sale of the crop is the great bulk of my business. If the landlord's right were preserved over the stock, I should have no objection to its being required that he should get intimation of the sales. I should like to mention, that postponed removal of the crop from the ground is no fault of the purchaser. He takes all the possession at the time of the sale that the subject is capable of. The dairyman uses turnips for his stock for seven or eight months till June, but he cannot store them on his premises; and, if he removed them at the sale, their future growth would be lost. The system which I have explained extends for five or six miles round Dundee, more or less; and in one of my circulars I find 44 farms named, varying from 100 to 300 acres each. There have been far too many displenish sales in our neighbourhood of late years for agriculture to be in a healthy state; these having been caused by old tenants being compelled to quit their farms, owing to the rents asked being far beyond the value of the land. The high rents have been the result of parties without the requisite capital being taken, the landlords trusting to the law of hypothec for their protection. That has been a pretty common practice, though I am glad to say that some landlords have begun to turn over a new leaf. I have been put about by crop sold being sequestrated, but I never actually came to a collision with the landlord, as, where a trustee was appointed, he had to arrange for the rents with the landlord. I never suffered direct loss, though I have sometimes had reason to appprehend it. I think it would be an advantage if sequestrations were made public. *Q.* By the Mercantile Law Amendment Act delivery is no longer required, in order to make the purchaser safe; but there is a special exemption of the law of hypothec from that rule. Do you think that exemption should be removed? —*A.* Presuming that the landlord's preference over the crop is to be retained, I think it is only fair to give the landlord notice. I am not of opinion that the law of hypothec should be entirely abolished. I think it is only reasonable that the landlord should have a security over the stocking, as the tenant's funds are invested there during the whole lease.

To Mr Murray.—The system of sales which I have spoken of is, I suppose, confined to the neighbourhood of large towns. The entries to the farms are generally at Martinmas, and the rents are payable at Candlemas and Lammas after

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reaping. These are the usual terms in Forfarshire. I object to the landlord having any hypothec over crop. I hold that the crop is the common fund to pay the farmer's creditors. The landlord's security should be over the stocking, just as in urban tenements. The creditors, who supply the essentials for raising the crop, ought to be paid before the landlord, if there is to be a preference at all. *Q.* But is it not partly produced from the landlord's property, while the stocking may be entirely produced from the means of other parties?—*A.* The stock is presumed to be *bonâ fide* the tenant's. It is people's own fault, they sell stock to a farmer and don't get their money. *Q.* The tenant may have got stocking without paying for it, just as he may have got manure without paying for it; why would you protect the manure merchant, and not the man who has sold the stock?—*A.* There is a little difficulty there. *Q.* It would interfere much less with the practical working of your business, if the landlord's right of hypothec were confined to the stocking, and did not extend to the crop?—*A.* It would.

To Mr Carnegie.—I decidedly think that sales by auction, of which due notice has been given to the landlord, should be held equivalent to sales by bulk in open market.

To Mr Murray.—I have never suffered any money-loss from the landlord's claim; but I feel there is always a liability hanging over me in consequence of the postponed payment of rents. Of late years I have made a good many bad debts at the hands of farmers, and I experience great difficulty in getting payment from farmers.

To Mr Curror.—Where I have lost by farmers, the landlord has in almost all cases been paid in full. Most of the bankruptcies among farmers have been in the landward district of the county,—not so many of them near Dundee.

To Mr M'Lagan.—I think the law of hypothec has something to do with that. The farmers near a town are much in the same position as stock-farmers, as they continue to get good prices for their produce. The farmers about Dundee get one-half of their produce disposed of on very good terms. The quantity of corn and fodder sold by roup is small, compared with what is sold of grass and turnips.

To Mr Murray.—I think the number of bankruptcies, which have taken place in the county, is the best proof that land has been let far beyond its value.

To Mr M'Lagan.—Tenants were preferred at rents which farmers possessed of capital and skill would not give. I have seen many farms given back to the landlord with improvements made on them by the tenants, but I never saw the landlord get back his land in a rich condition.

To the Chairman.—In cases of sequestration the landlord is a sufferer by getting his land back in that state, but it has been by his preferring a bad tenant.

To Mr Murray.—It looks harsh to publish sequestrations, but the general effect of it would be good. By their non-publication a great many people are led to give farmers credit.

To Mr Curror.—I think the law of hypothec has had to do with the high rents got for the farms, because, but for the protection afforded to landlords by the law, they would not have preferred such tenants.

To Mr Carnegie.—I think the rights of landlords under existing leases should be protected; but I would free purchasers from all liability to them in the case of a *bonâ fide* sale.

To the Chairman.—If a regulation was made, binding me to give notice to the landlord, the effect of the law of hypothec would cease as regards my business.

Wednesday, January 11, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.
HON. MR CARNEGIE.
MR MURRAY.
MR FLEMING.
MR HOPE.
MR M'LAGAN.
MR CURROR.

(35.) JOHN STIRLING, ESQ. OF KIPPENDAVIE.

John Stirling.

To the Chairman.—I am a landed proprietor in the county of Perth. I also farm myself. I have eight pairs of horses at present. I am well acquainted with the condition of farmers in the western district of Perthshire, and in part of Stirling. The great bulk of them are small farmers, paying from £100 to £300 of rent. The value of their land varies from 15s. the imperial acre to 25s. It is a late district, and a good deal of it is high-lying, poor ground. They are very improving tenants. There has been great improvement in the last 20 years. They use a great amount of artificial manure now, which was perfectly unknown 20 years ago. A great many of them are sons of farmers, who were bred to the business, and who either succeeded to the farms, or were put into them by their fathers, and they are a very well-doing set of men generally. The period of entry to these small farms is Martinmas to the whole farm, and the first rent is payable, nominally, at Martinmas and Whitsunday afterwards; but almost the whole of the rents are collected at Candlemas and Whitsunday, 15 months after entry. I should say the majority of these men have not had more than sufficient to stock the farms, and keep themselves and their families for the first year, with perhaps £100 over, and they could not have paid forehanded rents. When they enter on a bare farm in that way, they get very little off it before the twelve months are out. If there is a way-going tenant, the probability is that they don't buy above a third of the crop. There have not been many sequestrations in the neighbourhood. Many of the farmers have been for years on the same farm,—much more than one lease. They certainly could not, as a class, pay forehand rents. I believe they have improved a great deal of that poor, high land, which would not have been improved otherwise, the landlords having almost universally executed the draining and the fencing. I don't think it is impossible to throw these small farms into larger holdings; but I think that is a question affecting the interests of the smaller class of tenants,—men paying from £100 to £200 a year of rent. If these farms were thrown into larger possessions, I would save in buildings and in fences to a considerable extent; so that, with a forehand rent, I would, as a landlord, be as well off, giving 15 per cent. of deduction, as I am now; but I think it would extinguish the small class of tenants, whom I look on as a very valuable set of men. I think the majority of them would emigrate. Their sons are grieves and foremen, who are looking forward to getting a farm some day; but, if they saw nothing but large farms, they would look on that as hopeless, and all the younger men would emigrate at once. A man of that sort has a prospect of saving enough of money, with some credit, to enter a farm of £100 or £200 of rent; but, if the rent is £500 or £600, he has no chance. I would not say the land is better improved by these men than it would be if it were in the hands of men of capital; but there has been a very large amount of improvement made upon it. The farms of which I have been speaking are principally arable, and to a considerable extent they are dairy farms. The farmers make a considerable part of their rents from dairy produce, and feeding stock. If the law of hypothec were abolished, the whole of that class of tenants would require to pay forehand rents. I am quite clear that would be necessary for the security of landlords, because otherwise every person would be paid before the landlord. Their customers meet them every market-day, and they would get their debts paid before the rent was due, but for the law of hypothec. I apply these remarks to my own district in particular; but I think they also apply to a good deal of the western district of Stirlingshire, towards

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Kippen, and in that direction. The system I have described is the general one throughout the whole of that district. I would certainly be quite prepared to give up the right of hypothec so far, that we should not be entitled to follow the crop or stock off the ground, when it is *bonâ fide* sold and paid for. I also think that all sequestrations should be published in the *Gazette*. I understand there have not been above one or two cases of following a crop in my district in the last 30 years, and in these cases it was sold in breach of sequestration.

To Sir W. Gibson Craig.—If the law were abolished, even supposing the rents were forehand, I think the relations between landlord and tenant would be very materially altered, because the tenants would require to be kept very short to their term, and no indulgence given. I think the landlord would be obliged to have recourse to sequestration oftener, in order to protect himself. He would not run any risk. He would sequestrate at once. I have often, in the case of a bad cattle market, allowed a tenant's rent to stand over till the next tryst; but, if I had no hypothec, I should certainly require some security before doing that, if the law were abolished. If the rent was paid before the crop was cut, I think that would be sufficient security under a new law. That is to say, if the tenant entered at Martinmas, and paid me the first half-year's rent in the spring, and the other half by 1st August, I should consider I was safe, so far as the year's rent was concerned; but I would not be safe in giving the accommodation which I now do, even if rents were prepaid. A good deal has been said about the high price of manure to farmers, in consequence of the law of hypothec; but I don't think that has anything to do with it. I think it is a mere question of ready money or credit. I buy a considerable quantity of artificial manures myself, and I find that there are two prices—ready money and credit. Now, I think it may be more easily ascertained whether a farmer is worthy of credit, than whether most other men are so; because, if a tenant is not thriving, that is shown at once by his crop and stock. With reasonable inquiries, any one can ascertain whether a tenant is doing well or not. With due caution, a manure merchant should not make greater losses than are made in any other business. I have been a director of the Royal Bank for some time. A good many applications are made to that bank for cash-credits for farmers. I do not think farmers would get credit more easily from banks if the law of hypothec were abolished. The bank, in giving cash-credits, looks to the names of the securities. We would not give a cash-credit on the security of a farmer himself. We never give cash-credits to any one without security in addition to the party applying.

To Mr M'Lagan.—There has not been any very great increase in the rents of farms in my neighbourhood. We have not had nearly the same proportion of rise of rents that there has been in many parts of the country. Some have been advertised. I have only advertised three myself for the last 30 years; but the greater part of the farms in my neighbourhood are let by private bargain, on a valuation made by Mr Dickson, or a gentleman of that class. Generally the landlords or factors in my district make due inquiries into the circumstances of offerers for farms. There may be exceptions, but, as a general rule, it is the interest of the proprietor to take a man with sufficient capital; because I always find that, wherever there is a change of tenant, there is additional outlay required on the steadings, fences, etc. Though the landlord got a little higher rent, it would be no profit to change every few years. Two or three feuars, not connected with farming, have come into my district, and offered for farms. I have none of these on my own estate; but there is one in my immediate neighbourhood, and he is farming very well. I believe he has sufficient means. He was not bred to farming. He was in business, and is so still. If the law were repealed, I don't think it would make any difference on the number of such offerers for farms. I don't believe it affects a man of capital at all.

To Mr Fleming.—Q. Do you think there would be any danger, if the law of hypothec were abolished, of landlords declining to grant leases?—*A.* A suggestion has been made, that there should be a statutory irritancy of the lease on half a year's rent falling in arrear. If that was done, I think it would put an end to leases altogether; because an insolvent tenant would merely require to keep back his rent half a year in order to terminate his bargain at any time. I don't think the abolition of the law would have the effect of preventing landlords from granting leases. I think there would be little advantage in having a statutory irritancy at the option of the landlord,

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because the parties can arrange as to the clauses which are to go into the lease. When I say that forehand rents would be sufficient security to the landlord for the year's rent, I mean rents paid before the crop is cut—rents paid at Candlemas and Lammas ; but I don't think that would be security at all equal to what landlords have now ; and I think the probability is, that they would require personal security in addition to the forehand rent, unless they were very sure of the tenant's means and capital. I would allow a landlord to follow a crop which was sold in breach of the sequestration, if the sequestration was publicly intimated in the *Gazette*. That ought to put the purchaser on his guard. I have not considered how it should be, if the crop were sold between the date of sequestration and the publication in the *Gazette*. It would only be a question of three days. I do not approve of following grain, if there has been no publication. Publication would give fair warning to every one of the state of the tenant's affairs.

To Mr Curror.—Under the present law tenants may sometimes be carried on a little longer, than they would otherwise be ; but I don't think landlords are inclined to carry on tenants who are hopelessly going back. They may give them a chance for six months. If a tenant is going back, his neighbours must have a pretty good idea of the state of his affairs. That is so in my district. If a tenant is threshing out his crop too fast, or selling his cattle before they are fat, that soon becomes known.

To Mr Fleming.—If the landlord had a preferable right over the stock and crop of his tenant, to the extent of one year's rent, in the event of his bankruptcy, that with forehand rents would not be equal to the present law, but it would be better than nothing. The ordinary creditors would know the full extent to which the landlord could be preferred.

To Mr Hope.—The tenants in our district generally enter to their farms at Martinmas ; and in most leases—in all mine—there is a clause by which, if the outgoing tenant gets notice at Whitsunday, the incoming tenant has a right to take the crop at a valuation ; but the almost universal practice is to sell the crop by auction, and the incoming tenant generally buys a proportion of it at the sale, seldom more than one-third, for it goes very high at these sales. I speak of the whole district when I say, that very few sequestrations take place in my neighbourhood. My opinion is, that landlords would insist on having fore-rents if the law were modified. I don't say that I would do it in the case of an old tenant, whom I knew well, and who had been long on the estate ; but, if a stranger came to take a farm, I would insist on his paying forehand rent. I think if the farms were thrown together, there would be a considerable saving in buildings and fences to the landlord, and that, with a forehand rent, he would be as well off with a reduction of 15 per cent. on his rent as he is at present. The tenant must have capital when he enters, to stock the farm, to keep himself, family, and servants for twelve months, and something over, so as not to be obliged to thresh out his crop immediately, to meet the Martinmas payment. It is very difficult to say what sum is required to stock a farm of 150 or 200 acres in my neighbourhood, so much depends on the times. Second-class horses, that were sold at £30 two years ago, are to be had now for £15. Tenants would require more capital, to the extent of at least a year's rent, if their farms were fore-rented. Even where tenants of that class have been doing well, I don't think they have any money generally, because they have educated their sons, and put them into small farms ; so that many of the men, who have been doing well during a lease, are bare of ready money.

To Mr Carnegie.— I have known a good many instances of these small tenants taking larger farms at the expiry of their leases. I have now in my own hands a farm of 150 acres, which the tenant left at the end of a 19 years' lease, because he wanted a larger farm. He began with his stock only. I have known several instances of tenants who have set up two or three of their sons in farms, who began with only a small farm. The father might have no difficulty in fore-renting his farm at the end of a lease, but the sons would probably all emigrate. When I say that several sons have been so set out, I mean that that has been done in a lifetime, not perhaps in a 19 years' lease. The law of hypothec enables the landlord to give indulgence to tenants. If the tenant is insolvent, of course that is done at the risk of his creditors ; but I was speaking of a perfectly solvent tenant, who wants to hold over his stock for a

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better market. If the landlords had no hypothec, many of them would not allow 30 days to expire without getting their rent, because they would not run the risk, especially trustees and guardians. If the tenant is insolvent, such indulgence is given at the risk of the other creditors; but the landlord is not always secure. My rents are payable to me at Whitsunday, and my hypothec does not expire for three months after that; but I give a tenant indulgence after that period at my own risk. I believe the clause, which I stated existed in most leases in my district, giving the incoming tenant power to take the crop of an outgoing tenant at a valuation, is very rarely acted on. If I, as landlord, took over the crop and paid the value of it, I suppose I would have to account to the creditors; but I am not a lawyer. Generally speaking, these crops go at sales so high, that the incoming tenant rarely takes any of them; he buys a field or something of that sort. As a director of a bank, I should say that bankers do not grant cash-credits to farmers without two securities, as a rule. We take a great many farmers' names at present, and I don't know that it would make much difference, even if the law were abolished. If a man has a good character, and a good farm, and stands well, we take his name at present on a bill.

To Sir W. Gibson Craig.—We have never asked if his rent is paid. We assume that it is paid, if he has a good character and is doing well.

To the Chairman.—The small tenants use a good deal of foreign manure. I have not known cases in which the manure merchants suffered loss from these small tenants; but I have known one or two instances where loss has occurred from the agents of manure merchants trusting farmers who were notoriously in difficulties. That was the fault of their agents, because they could not have made inquiries; but many of these agents are so anxious to get orders, that they do not make sufficient inquiry.

(36.) Mr JOHN COOPER.

John Cooper.

To the Chairman.—I am a corn merchant in Dundee, and also a farmer. My farm is upwards of 200 imperial acres in extent. I am 38 years of age. I have been a farmer 11 years, and a corn merchant nearly 17. I also deal in guano and linseed cakes, etc. I am connected with a house who are agents for the sale of the Peruvian Government guano arriving in the river Tay. My rent is nearly £900. My term of entry is Martinmas, and that is the usual term of entry in our district. My first rent is payable in February, after the crop is reaped. I think no change is desirable in regard to the period of entry. My transactions in buying from and selling to farmers amount to nearly £100,000 a year, and these are principally confined to my own district.

To Mr Murray.—The £100,000 is my transactions both buying and selling; but, if I were to include the sales of the Peruvian Government guano, it would be much more. Last year, and the year previous, I sold nearly £80,000 worth of guano alone.

To Mr M'Lagan.—Including that Peruvian guano, my transactions would be nearly £180,000 annually.

To the Chairman.—I cannot give any idea of my annual loss by bad debts. They have been increasing year by year, as the times have been bad. I don't think I have lost more than £200 in my dealings with farmers within the last year.

To Mr Fleming.—I should think that about a fifth of the £100,000 which I have mentioned, consists of sales to farmers. I buy a great deal more than I sell. The £80,000 worth of guano is sold to farmers and dealers. My sales of everything to farmers may be £100,000 in the year, and it is on that amount that I have lost about £200 last year. I was very fortunate last year. *Q.* What was the greatest sum you ever lost in one year, within the last 10 years?—*A.* I remember one year losing nearly £400 by farmers, and at that time I was not connected with the house for which I sell the Peruvian Government guano, and did not deal nearly so largely as I do now. I don't think I was then doing half the business I do now. These losses were occasioned by cases of sequestration, and the preference which the landlord has under the law of hypothec. The dividends we receive in the county of Forfar are extremely small. The sequestrations have been very numerous. I have a list of them

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here, which I can produce. I find that the sequestrations for rent taken out in the Sheriff Court for the Forfar district in 1863 and 1864 amounted to 44, and in the Dundee district to 25, making in all 69 sequestrations for rent in the county of Forfar during the last two years. They were all farmers.

To Mr Murray.—The urban sequestrations are excluded. These figures seem large, but I may mention that they are limited to a very few landlords.

To the Chairman.—Fortunately for me I had not dealings with a fiftieth part of the persons so sequestrated. I knew that some of them were doubtful, and tried to avoid them; others I did not know. I have also here an abstract of the sequestrations in bankruptcy in the county of Forfar, and I find that, for the two years I have mentioned, there were no less than 19 such sequestrations, in addition to the numbers I have already given. These are all farmers' sequestrations. I do not find it easy to ascertain the position of farmers before dealing with them—the very reverse. Their circumstances are not known in the district, and the landlord may keep us in darkness, and often does so. It would certainly be an advantage if sequestrations were published in the *Gazette*, as mercantile sequestrations are. I was once connected with a case in which a landlord in the county of Perth summoned to the Court of Session five or six individuals who purchased grain by sample in open market. After being in court for a considerable time, it was compromised by a friend of the tenant's coming in and relieving the parties who had purchased. But for that, I have no doubt we would all have had to pay the grain over again. That is the only case of the kind in which I have been concerned. But I know of other cases of that sort. In one case, a gentleman in Dundee pursued a brewer who had purchased a quantity of grain from a tenant of his, and afterwards recovered the money. I know that the brewer paid the money twice. The other day a corn merchant, a neighbour of my own, showed me a letter, which he had received from the agent of a landed proprietor in Fife, threatening legal proceedings unless he paid a certain quantity of grain which he had purchased from a tenant who had become bankrupt. I think that part of the law, permitting the following of grain, should be abolished. Sale by sample ought to have the same privilege as sale by bulk. We have no stock market in the county of Forfar. I would allow a tenant to sell anywhere he likes, and, even if he sold privately in his own stackyard, I don't think he should have to give any intimation to the landlord of his intention to sell. I think the law of hypothec should be entirely abolished. I would give the landlord no legal security for his rent. It would be for landlords to consider whether they should ask forehand rents. I think there is ample capital in the country to carry on the profession of agriculture; and, even if the landlord thought it necessary to resort to forehand rents, I don't think it would create any inconvenience. It would be inconvenient for men without capital, but such men have no right to take land. I can state several cases showing the reckless way in which some landlords have let their farms in the county of Forfar. In one case, a farmer in the parish of Menmuir took a farm of 400 acres at Whitsunday 1858, and he stated before the sheriff, on his examination in bankruptcy, that he commenced farming with less than £100 of capital. The result was that in a very short period he became insolvent, and his debts amounted to no less than £10,999, 11s. 3d., and his assets to £2259, 8s. 7d., showing a deficiency of no less than £8740, 2s. 8d. In another case, in the parish of Stracathro, a tenant took a farm of 235 imperial acres at Martinmas 1858. He commenced farming with less than £300 of capital, kept no books, and, after a very short period, he suspended payment, with debts and other obligations to the amount of £8090, and assets to the amount of £2300. I believe he raised a large sum by means of accommodation bills. I think the law of hypothec prevents tenants from getting accommodation from bankers. I have no means of knowing whether that man got the money from bankers or not; but I have seen a large number of the bankers of Forfar, and they are almost all entirely in favour of the total abolition of the law. One of the largest bankers in the county, whose dealings with farmers are very extensive, says in a letter to me:—'I hope this inquiry into the law of hypothec will result in every shred of it being cleared away. Depend upon it, nothing short of this will do. The agricultural interests cannot be resuscitated, or the tenantry placed on the independent footing they ought to occupy in the country, while the law of hypothec

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exists.' In a conversation which I had with the same gentleman, he mentioned that, if the law was fully abolished, he would feel very much more confidence in dealing with farmers than he now does, because he would know exactly the position in which they stood. The tenant, to whose case I referred first, stated on his examination, that he got accommodation from bankers by accommodation bills. I could give a great many other cases, but I will not take up your time by referring to them. I should like, however, to mention another case of a farmer in the parish of St Vigeans, near Arbroath, who found himself in a state of insolvency in 1859. He was largely in arrear of his rents, and, in place of the landlord letting him become bankrupt, which he ought to have done, so as to have enabled all the creditors to get a fair dividend, he increased the man's burdens by adding the arrears to his rent over a series of years. In fact, he carried him on in a state of insolvency for five years, and then increased his rent. He had already lost his right of hypothec, and, in order to get the arrears recovered, he took the extraordinary course of increasing the rent, and the result was, that only recently the tenant became bankrupt, with very large liabilities, and assets almost *nil*. I believe that has been done in several cases by the same factor. Where he saw his tenants getting into large arrears, which he could not recover, he spread them over a series of years to come, and thereby secured his right of hypothec.

To Mr Fleming.—I am not aware whether any question is to be raised as to the legality of the arrangement which I have mentioned.

To the Chairman.—All the cases of bankruptcy which I have mentioned were not in regard to farms under the same management; but upon one small property alone, in the neighbourhood of Kirriemuir, there were no less than twelve sequestrations for rent in two years. I have no doubt that all the farms, on which such disastrous results took place, had been let too high; but, if they had been let to men of capital, perhaps these results would not have followed. I am of opinion that one-third of the county of Forfar is not properly farmed; and I attribute that partly to the land being let to men who have insufficient capital to cultivate the soil properly. There are many landlords in the county who are extremely careful, and on their property the law of hypothec has had little or no effect, for we rarely hear of sequestration on them. *Q.* What is the general case? Are the cases of men being taken with insufficient capital the rule or the exception?—*A.* I believe it is the rule. The factor to whom I referred has such great influence in the county, and has the management of so large a tract of land, that even his own actings would make it general. I have ascertained how many sequestrations for rent have occurred for the years 1863 and 1864 in the eastern district of the county of Perth—the district from which farmers come to Dundee market—and I find no less than 59 sequestrations for rent taken out there. These farms are not under the management of the individual to whom I have referred. In dealing with farmers for manures, I invariably endeavour to sell for cash, but farmers generally take credit. I have no doubt the abolition of the law would prevent farms being let to men of insufficient capital. The landlords would not take such men as have sometimes been taken. I think one-third of the county is not properly farmed, and that partly from a deficiency of capital.

To Mr Murray.—In the Perth case, where five or six individuals were pursued for the price of grain by the landlord, I think the tenant had been sequestrated unknown to the parties, but I am not sure of that. I believe there are more bankrupt tenants in Forfar than there are in other counties in Scotland. This has taken place chiefly on about a dozen estates in the county, not all under the same management, but many of them under the same management. If a tenant had sold grain by sample, but the purchaser had not got possession, I think the sale should stand good, even though it had not been paid for. I would not abolish the urban hypothec. For the raising of the crop it is necessary that the landlord, the manure merchant, and the seed merchant should contribute; but, in the case of a house, it is understood that a man's furniture is his own, and generally speaking it is paid for. I see no reason why an upholsterer should sell furniture upon credit. In the case of a manure merchant it is different, because it is a considerable time before the farmer can convert the article which he is growing into cash.

To the Chairman. Q. If the law were abolished, would not the manure merchant and the seed merchant, who you say contribute with the landlord to

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the raising of the crop, really get a preference over the landlord by getting payment of their accounts before his rent became due?—*A.* He can make the rent due when he pleases. He can protect himself. He can stipulate to get prepaid rent, or rent paid monthly, or quarterly, as in England.

To Mr Carnegie.—I don't think the abolition of the law should affect existing leases.

To Mr Hope.—I don't think the state of matters, which I have mentioned as existing in Forfarshire, could have taken place if there had been no law of hypothec. Without such a law, I think no landlord would take a man with only £100 of capital as tenant of a farm of 460 acres. I know one case of a merchant in Dundee, who took a farm in the parish of Monikie, and became bankrupt shortly after, and he declared before the sheriff that he commenced farming with little or no capital. But notwithstanding that case, when the farm was again let, it was given to a joiner, who has since also become bankrupt, and he declared that he commenced farming with only £7. I have no hesitation in saying that, but for the law of hypothec, such men would never have been taken as tenants. These tenants did not improve the farms. The factor before referred to has upwards of 50 pair of horses going on land which he has taken into his own hands.

To the Chairman.—No doubt the landlords have got their land back deteriorated, but they have invariably got their rents paid. As convener of a committee on the subject of hypothec in the county of Forfar, I have taken some trouble to ascertain the views of the small tenant-farmers in Forfar. I am the descendant of a long line of farmers. I have held the plough myself, and I have had ample opportunities of meeting with that class of men in my early youth, and also as a merchant since; and I have no hesitation in saying, from the information I have received from these men, that almost the whole of them are in favour of the law being done away with. When they go to a banker to ask assistance, he tells them that he knows nothing of their circumstances, and declines to give them any assistance. I have no hesitation in saying that, if the law were abolished, that class of men would be in a very much better position than they are at this moment. They would get assistance from bankers and others without the least difficulty. For example—a grieve or overseer takes a small farm of 50 or 100 acres. If the law were abolished, he would get assistance from his former master and from his friends, because they would know him to be a practical and careful man; and they would also know that they would get a fair share of what was going, in the event of his meeting with any misfortune, such as a loss of stock. I know a man who got into difficulties through a serious loss of cattle. His three or four creditors met the landlord, who was a very indulgent man, and conducted his affairs himself. He told them that the tenant was two years in arrear of rent; but that, if they were disposed to assist him, he would let the arrears lie over. They said they would do so, if he abandoned his right of hypothec. He at once did so, and allowed himself to become a common creditor; and, to my knowledge, that tenant is in good circumstances, though I believe he would have gone to the wall had the landlord insisted on his hypothec. I have looked into all the cases of bankruptcy which I have mentioned, and I find that there is not among them one man who has been farming under 100 acres. We had a meeting in Dundee on this subject, at which upwards of 1000 tenant-farmers attended. I moved a resolution, which was carried, that the law of hypothec is injurious to merchants, farmers, and others. Various other resolutions were passed, and a petition sent to Parliament on the subject. When the petition was signed throughout Forfarshire, it was sent to me to be forwarded to the member of Parliament for the county. I examined it very carefully, to see who had signed it, and I found that a very large number of that small class of tenants had put their names to it. I conclude, therefore, that they are decidedly in favour of the abolition of the law. If the law were abolished, these men would get money from bankers at from 4 to 5 per cent. in ordinary times; but, under the present system, they pay an enormous rate of interest, in the shape of increased rent. Landlords extort money from many of these men, and keep them in a low position all their days.

To Mr Murray.—In signing that petition, these tenants must have known perfectly well, that the probable result of the abolition of the law would be that they would have to pay forehand rents. I have not the slightest doubt

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that, as a class, they would be able to do so. I know them intimately, and have mixed with them all my days ; and I believe, if the law were abolished, these men would have no difficulty in getting money from sources which at this moment they have no opportunity of getting money from. I have no doubt they would be able to pay their rents forehand. I may state that that class of men, with small holdings of from 20 to 50 or 60 acres, pay their rents much earlier now than larger farmers do. A great many crofters in Forfarshire pay six months after entry, whereas the larger tenants pay 15 months after entry. The result of fore-renting would be, that they must have additional capital, to the extent of a year's rent ; but they would get money more easily from other sources than they do at present.

To Mr Hope.—The losses of wrights, smiths, and other tradesmen have been very heavy in the county of Forfar, and many of them whom I know have been nearly ruined. One wright put up a wooden wheel for a farmer for £21, but the farmer became bankrupt, and he only paid 4s. 10d. a pound. In another case, in the neighbourhood of Dundee, I know a number of these small tradesmen who will get nothing. After the landlord is paid, there will not be enough left to pay the trustee.

To Mr Curror.—The letting of farms to the class of men without sufficient capital, who offer high rents, has been the means of raising the rent of other farms in the county. I know several gentlemen who have left Forfar, within the last few years, and gone to the neighbourhood of London, and they have taken away at least £30,000 of capital out of the county. I know other cases where farmers in good circumstances in the county have been compelled, rather than remove, to give more for their land than in their judgment they were satisfied they should give. I also know a case which took place in the neighbourhood of Newtyle, two years ago. One of the largest farms thereabouts was to let, and five persons competed for it. Four were gentlemen of large means and experience, well able to take the place, but a merchant from Dundee was preferred, who had little or no capital of his own ; and I know that the factor has consented that he shall get a deduction in the ensuing year of upwards of £200 of rent. That is to be given in the shape of manures. Now one of the gentlemen, who competed for that farm, could have paid the whole 19 years' rent, whether he had taken it out of the land or not. I consider that a case of great injustice, and I think that the party who was preferred would not have been so, but for the present law. The system to which I have referred has been the means of increasing rents generally ; but the mania for taking land is wearing over in Forfarshire. It is not so wild as it was at one time.

To the Chairman.—The Crimean war caused grain to rise very high, and all classes imagined they would make their fortunes by farming ; but the effect of free trade in corn is only now being felt, and parties are now getting more cautious in taking land.

To Mr Curror.—I believe, if the law were abolished, and a larger amount of capital brought into the cultivation of the soil, it would not reduce the rent of land. On the contrary, I believe, in 10 or 20 years, it would tend to raise rents, by bringing in people of capital to compete against each other. There are numbers of farmers in Forfarshire at this moment, who have their land cheap enough, but who, for want of capital, cannot successfully cultivate it.

To Mr Fleming.—In my opinion, taking the whole county of Forfar, it is not overrented at this moment ; and, if the law were abolished, I would not anticipate, over the whole county, any decrease of rent. The rents, I think, would ultimately be maintained. It might cause a crisis for some time, but, in the end, I have no doubt it would bring about a more healthy state of matters. The immediate effect of the abolition of the law on the county of Forfar, as a whole, would be, that it would sweep out all that class of tenants whom I have been describing, who never should have had land at all ; and I think there would be a temporary reduction of rents, but a permanent increase as soon as the expenditure of increased capital on the land began to be felt. I think rents should not be paid forehand, because there is no rent for any subject in this country which is paid forehand, and I see no reason why land should be an exception. By forehand I mean prepaid. If there is to be a mere modification of the law, I think the landlord's right should be restricted to two half-years' rents—the half-year's rent due, and the current rent. If the law were altogether abolished, landlords would look out for men with capital,

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and then the stocking on the farm would be ample security. If a tenant becomes bankrupt, the lease should come to an end. I would also make non-payment of the rent for a certain period terminate the lease, but I would not make that a statutory provision. It should be left to the landlord and tenant to arrange. I think it is more than likely that the landlords would stipulate that rents should be paid six months after entry, and they would be quite entitled to do that. I don't see any difference between a landlord letting his land for nineteen years, and a manure merchant entering into only one transaction. The proprietor purchases his land, and in reletting it under any circumstances he must run a certain risk. If he receives a rent, he ought to run a risk along with others.

To Mr M'Lagan.—If there was no law of hypothec, I think landlords would still give indulgence to deserving tenants. As to the case which I mentioned, where the landlord abandoned his hypothec, if I had been the landlord I would have done the same thing, knowing that the tenant was an industrious man, and that his misfortunes had been caused by losses from cattle. Even if the law were abolished, I think landlords would act in that way if they had confidence in their tenants. If a tenant could not pay his rent within a certain period of its being due, I think the lease should terminate ; but if a deserving tenant were in difficulties, his friends would come forward to assist him. A manure merchant ought to get 5 per cent. per annum on his capital, and he would require other 5 per cent. for profit. The landlord does not get such a per-centage for his land, but the subject is always there, whereas a manure merchant's goods are not always there. If a tenant becomes bankrupt, the landlord gets his land, but the manure merchant often gets nothing. In the case of bankruptcy, the land is generally given up in a deteriorated state ; but still I don't see that the landlord should have more security for his smaller per-centage than the manure merchant. I don't know that the effect of the repeal of the law would be to shorten leases. The landlord can make his own terms with his tenants, and if the tenant does not agree to these terms, the landlord can keep the land in his own hands.

To Mr Fleming.—I generally give a month's credit, but in many cases six months, and in some twelve months. It depends on the credit of the party. The prices vary according to the length of credit. If the landlord got his rent six months after entry, tenants would by that time have reaped a portion of their crop. A large portion of my land is within the extended royalty of Dundee, and new grass is sold by public roup in April after entry ; and, if the tenant chooses, he may obtain money for that before the rent is due, but of course that is only a small portion of his rent. I think an abolition of the law might reduce rents 10 to 15 per cent. I think many farms are overrented to that extent, through the operation of the law. *Q.* Do you think that justifies the term you used, that landlords 'extorted' money from tenants?—*A.* I say that certain landlords do so under the law of hypothec. Perhaps 'extort' is too severe a word; but I mean they put a higher value upon land than it is worth. Of course, no law can compel prudence in the management of estates ; but if this law were abolished, I think landlords would be much more careful in selecting their tenants. *Q.* Do you know any case in which the landlord has got back his property improved after the failure of a tenant?—*A.* Yes. I knew a case where a party from Dundee took a farm in Strathmore. The farm was not overrented ; but, after cultivating it for several years, he got into difficulties, through speculations, etc., and the result was, that the landlord took the benefit of a clause in his lease, enabling him to put an end to it in the event of bankruptcy. That farm was afterwards put up by public roup in Dundee for a *grassum*, and brought upwards of £700. The land had been vastly improved by town's people's money, which had been put upon it. I think that case arose from the operation of the law of hypothec. It was well known in the town at the time, that the party who took the farm had not sufficient means to carry it on. As a rule, the farms that have been improperly let in Forfarshire have been returned to the landlords in a deteriorated condition, but there have been exceptions. The landlords derived benefit by getting increased rental as long as they could, and by getting their rents in full, while other creditors suffered. If there was a change in the law, I have no doubt that the factor, to whom I have been referring, would find it necessary to change his system of management, and to be more careful in the selection of tenants.

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To Mr Curror.—The landlord has lost in some of these cases.

To Mr Hope.—I think the abolition of the law of hypothec would reduce rents 10 to 15 per cent. in the county of Forfar, for a certain time; but I have stated that a large number of the farms are fairly rented, and, bad as times are, the farmers are making a living on them. I am satisfied that it would have no effect on them.

To the Chairman.—It would have no effect on them, even if they were fore-rented.

To Mr M'Lagan.—I do not think the tenant should trade on the landlord's capital. If the law were abolished, I think the greater portion of the rents would be made payable at Whitsunday after entry. I would not say that a farmer entering on a farm should borrow the money necessary to conduct it; but if he had a fair amount of capital, I don't see why he should not borrow to a certain extent, just as merchants do. I am aware that at present bankers look on farmers' bills with the greatest suspicion, and that in fact they will scarcely discount them.

(37.) JAMES LOW, Esq.

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To the Chairman.—I am a landed proprietor in the county of Berwick. I have acted for many years as factor for several large properties in the counties of Berwick and Roxburgh. I am factor on the Marchmont estates, belonging to Sir Hugh Hume Campbell; for Mr Spottiswoode of Spottiswoode, Mr Trotter of Mortonhall, Sir John Houston Boswell—all in Berwickshire; Sir George Douglas, Sir Edmund Antrobus, in Roxburghshire, and many others. The aggregate rental of the estates of which I have the management is about £60,000 a year. In most cases, the entry to the farm is at Whitsunday and separation of crop; the first term's rent being payable at Martinmas and Whitsunday, eighteen months and two years after entry. I think the period of entry works very well; and the term for payment of rents enables landlords to let their farms on improving leases, and gives them a larger choice of tenants; while it is an advantage to the tenants, because it enables them to take farms which they could not otherwise do. It gives them a fund in hand for the improvement of their farm. In some cases it may encourage landlords to take men with insufficient capital. I attach the greatest importance to making inquiries as to a tenant's capital, and other qualifications. I find it often very difficult to ascertain how their funds stand. Landlords have no doubt greater facilities than ordinary traders in selecting a tenant, but still there are considerable difficulties in the way, and they are sometimes deceived, however careful they may be. I think the law of hypothec has been very beneficial to the tenants in the district with which I am connected. It has enabled landlords to let their farms on improving leases, and to get a fair competition for their land,—by which I do not mean bringing in as competitors persons who have neither skill nor capital. I think it was particularly beneficial when the capital among the landed interest was small. Looking back over a series of years, I think the existence of the present law has operated beneficially for the progress of agriculture—at least in the earlier stages of agriculture. I could not certainly recommend an abolition of the law. If it were abolished, looking to the general practice in our part of the country to pay back-rent, I would consider it necessary to have a year's rent paid before a crop was reaped. I think that would secure proprietors, but that would be necessary to put proprietors in as good a position as they are in at present, and to make them safe. I think fore-renting would be sufficient security to the landlord. *Q.* Do you think there is any great number of tenants, on the estates with which you are connected, to whom a change of that kind would be very inconvenient?—*A.* Decidedly; it could not be done in many cases; and these are men who are prospering under the present system, but they could not meet such a demand in a great many cases. I take it for granted that any change would not interfere with existing leases, because that would lead to great embarrassment between landlord and tenant. But suppose the change were made prospective, the tenants to whom I refer must take smaller farms in many cases, and the tendency would be to reduce the competition for the smaller class of farms. I think the tendency would be to reduce rents in the first instance, particularly

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on the small and middle-class farms, but I am not prepared to say to what extent that reduction would go. Generally speaking, in my part of the country, I should not say that tenants are deteriorating, or that agriculture is going back. Generally speaking, the class of tenants in the farms is quite as good as it used to be; at the same time, some proprietors are perhaps not so guarded as they should be in the selection of tenants. Sequestrations for rent have been very rare in my experience. They have been perhaps on a dozen of farms, and my experience extends over about 28 years. I never had a single instance of interference with a *bonâ fide* purchase of grain, and I never knew any instances of that on other estates in Berwick and Roxburgh. *Q.* Do you think that a modification of the law, to the extent of giving the landlord security for a single year's rent, would be beneficial or the reverse?—*A.* I am not prepared to recommend an abolition of the law; at the same time, there is more capital in the country now than there used to be, and circumstances have so far altered, and it is for landlords to judge whether, in deference to public opinion, they should not agree to make some such modification as you have referred to. There might be some difficulty in introducing a system of fore-rents, and perhaps half fore-rents might be a likely result. With a Whitsunday entry, a fore-rent would be payable at Martinmas previous to reaping the crop. I think there might be certain advantages to the community if landlords' sequestrations were made public in the same way as mercantile sequestrations are; but tenants would not like it, and it might hurt their credit. In the rare instances of sequestration which have occurred in my practice, I don't think that serious losses have been sustained by the general creditors of the tenants. In most cases, the landlord got his whole rent, but his land is rarely handed back to him in good condition in such cases.

To Mr Curror.—I think the abolition of the present law would have the effect of reducing competition for the smaller class of farms in the first instance; and so at first it might reduce the value of the larger farms, but ultimately they would come up to their present mark. I would not like to give an opinion as to the time within which that might take place.

To the Chairman.—*Q.* Do you think land in your district is too high rented at present?—*A.* I think, on the estates I am connected with, there is no reason for complaining; but there are many farms in the district which are high rented, very much in consequence of the great competition which took place for seven years previous to 1862. In some cases the over-rented farms have been taken by persons who were not professional agriculturists, and some of these men are doing well, though others have failed, from offering too much rent.

To Mr Hope.—Taking the four-shift, tenants would enter to grass and fallow at Whitsunday, and to the remainder at the separation of the crop; they would enter at Whitsunday to one-fourth grass and one-fourth fallow, or it would be three-fifths under the five-shift system, which is more prevalent in our district. On these farms the tenants are not asked to pay rent till 18 months or two years after they enter to the grass and fallow; and I generally give three months' additional indulgence, to which the tenants attach great importance, as they say it gives them a choice of markets. In saying that tenants might have considerable difficulty in fore-renting their land, I was not aware that the question referred to their doing so at the end of a 19 years' lease; but even then I think that in some cases the smaller class of tenants would have difficulty in paying fore-rents. Sometimes I find difficulty in finding out the true position of a tenant offering for a farm. I would have no delicacy in inquiring into his position, but it is not possible always to get precise information. In the cases where landlords are not so careful as they should be in the selection of tenants, I have no doubt that it was the high rents which induced them to take those tenants. There is no doubt that the postponement of the payment of rents induces competition for farms.

To Mr Carnegie.—In letting land recently on the expiry of leases, I have generally had a rise of rent. There has been an advance upon land generally within the last five or six years. I am aware that some farms in Berwickshire and Roxburghshire are fore-rented. The proportion on the estates which I am connected with is small; out of twelve farms there is probably one fore-rented or half fore-rented. The fore-rents are the exception in our part of the country.

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Q. Have you ever heard that any proprietor, whose land is fore-rented, has experienced greater difficulty in getting good tenants than those whose farms are back-rented?—*A.* I have not the means of knowing how far other people's property is fore-rented.

To Mr Fleming.—I think that portion of the law which permits the landlord to follow grain, is very objectionable. I think the distinction between what is sold by bulk and by sample is very objectionable.

To the Chairman.—I am not prepared to say that I would put a private sale in the stackyard on the same footing as a sale in bulk; but I think that might be allowed, if intimation of the intention to sell was given to the landlord or his known agent.

To Mr Murray.—I think delivery and payment ought to be made necessary to the protection of such a sale.

To the Chairman.—I think that, with reference to the smaller class of farms, there has been more competition than was quite desirable among men without the necessary capital, and no doubt they have facilities for taking land from the law of hypothec. I apply that remark only to the smaller farms. I do not think that there has been any undue amount of competition for the large farms. One benefit arising from the present law is, that it enables an agent to give tenants a little indulgence, from time to time; and I have found that a little well-timed indulgence in the payment of rent has the best possible effect in carrying an industrious man over a bad year, and may perhaps be the means of puting him all right again. That has occurred again and again; and if the landlord had not the security which the law gives now, that could not be granted. It would be necessary for factors to be more stringent. I think fore-rents would be their only security; but circumstances have altered, and it may be a question for landlords whether, in deference to public opinion, they should not consent to some alteration on the law.

To Mr Hope.—If the tenants to whom the landlord had given indulgence had failed, they would not have done so at the landlord's risk.

To the Chairman.—If the law were abolished, I think it would be necessary to introduce a statutory irritancy of leases in the event of bankruptcy. I know the difficulty of dispossessing a tenant on the ground of a year's rent falling in arrear, and certainly a tenant can contrive to remain on a farm month after month; and therefore I think it quite necessary that a statutory irritancy should be introduced in the case of bankruptcy.

(38.) JAMES M. MELVILLE, Esq.

James M. Melville.

To the Chairman.—I am a Writer to the Signet, and have been over forty-seven years in business. I have been much engaged as legal adviser to the proprietors of large landed estates. I am agent on the estates of the Duke of Portland in Ayrshire, and those of the Earl of Moray in Mid-Lothian, Fife, Moray, and Inverness. Until the failure of the Douglas family in the male line, I acted for that family, and was for thirteen years commissioner for the two last lords. The estates of that family are in the counties of Berwick, Roxburgh, Lanark, Renfrew, and Forfar. I also act as agent on the Craigiehall and Blackwood estate and the Wemyss estate in Fife; and till the proprietor of the estate of Cromarty became Duchess of Sutherland, I acted for that estate. For a great many years, I acted for proprietors whose gross rentals considerably exceeded £100,000 a year. These estates comprised farms of all sizes, and it may be said of all sorts. The terms of entry and of payment of rent varied considerably. In the greater number of cases, except Berwickshire, the period of entry was at Martinmas. On the Roxburgh estates, where the rent is partly forehand, the entry was to the grass at Whitsunday, and to the houses and land at the separation of the crop. *Q.* What do you mean by partly forehand?—*A.* In the case of Berwickshire, for instance, the tenant pays half a year's rent for the arable land before he reaps a crop; and the same may be said of Roxburghshire, but to a smaller extent, because there is less arable land there. On the Duke of Portland's estate in Ayrshire, the entry is at Martinmas. I was never once obliged to put in force the provision of the law entitling the landlord to follow a crop after a *bonâ fide* sale; but I think there would be disadvantage in abolishing that part of the law. In my

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opinion, the law of hypothec should remain as it is. If it were altered, a great deal more would require to be done than simply doing away with the law. But I think it important that the law should stand as it is, because the landlord, who contributes nine-tenths of the capital for a farm, is entitled, in reason and in equity, to a security for his rent; and if he was not entitled to follow the crop, I can conceive that a wide door would be opened for fraud. So far as my reading has gone, where attempts have been made to defraud landlords by clandestine sales, the intention of the party committing the fraud was not to cheat the landlord simply, but to cheat all his other creditors. It might be possible to make sales by sample equivalent to sales in bulk; but if that was done at all, it ought to be done under stringent regulations, as to the removal of the crop from the farm,—that it should not be removed under cloud of night, for example. Otherwise, I think there would still be a door opened for fraud, and I think it would not tend to the advantage of farmers generally. *Q.* If it was made necessary to have the sale by sample registered at the market, would you not, in that case, make a sale by sample equivalent to a sale in bulk?—*A.* Still I think it would be necessary to make some saving clause, so that the mere fact of the registration, about which neither the landlord nor the factor, nor any other party, could know anything, should not be held as exclusive of the landlord's right, because there is a great deal trusted to a tenant. A gentleman may have an estate in a county in which he has no factor, and where he is non-resident, and there would be great room for defrauding him of his rights, if a transaction of which he could not be cognizant, and of which he could not be forewarned, done within the office of the clerk of the market, was to exclude him. The principle on which I understand the law of hypothec to be founded is this, that the landlord contributes in round numbers nine-tenths of the capital, viz. his land; and the theory is, that by this contribution, and trusting the tenant with the management of the land, and getting from it only interest for his money, and no profit whatever, the landlord has in theory a right to as much of the crop as will suffice for the payment of his rent; and so it is reasonable that the law of hypothec should be maintained. I consider that the portion of the produce required for payment of the rent never belongs to the tenant at all in point of principle, and the tenant has to look to what is over. I think there is no difference in that respect between the stock and the crop. I know that, in England, the landlord can distrain for payment of a year's rent preferentially to the creditors of the tenant. I believe that the landlord in England has substantially the same security that the landlord in Scotland has. I think the matter of feu-duty is very analogous to this question. I give my land temporarily in the one case for payment of a rent —I give my land in the other case permanently for payment of a feu-duty, and I don't see why the landlord should not have as good a security for his rent as a party has who disposes of a feu. All the proprietor gets for the land, whether he lets it or feus it, is an annual payment. I think there is a distinction to be drawn between a man who parts with his property for nineteen years and an ordinary dealer who can stop dealing with a man when he pleases. If I let my land, I am bound, the rent being paid, to continue the possession. *Q.* Do you think that persons who deal with tenants derive any advantage from the fact that they know the obligation under which a tenant lies to a landlord, whereas they cannot know the obligations which he is under to other creditors? —*A.* Yes. Everybody knows that the landlord has a preferential claim, and that he deals with the tenant subject to the preference of the landlord; but I am not aware that that ever affected the credit of respectable tenants, because I think they have found no difficulty in getting all the credit needed, and sometimes a little more. I have been for about twenty years a director of one of the principal banks in Edinburgh—the Commercial Bank, and I never heard it suggested in the remotest degree, that the law of hypothec prevented reasonable accommodation from being given to tenants, and I think all banks are in the habit of receiving one tenant as cautioner and security for another tenant. *Q.* Do you think that landlords, or their factors, are careless in making inquiry as to the circumstances of tenants in point of capital and skill, before they let their farms?—*A.* Most unquestionably not. I am satisfied—and I speak not only from my own experience, but from what I know of other men of business similarly situated—that they look carefully to the ability of the tenant in respect of skill and capital, and I think they also look (at least I do, as far as I can) to his

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fitness in respect of personal character. No doubt landlords and factors may sometimes be deceived, but they take every means in their power to get right information, and I never accepted an offer because it was the highest. I don't think that the security afforded by the law of hypothec makes landlords or factors less careful. It should make the tenants more careful, because everybody knows there is a large class of the tenantry who need assistance from their friends on entering to a farm, and they know that, by the law of hypothec, if things go wrong, the landlord sweeps everything away, and they and their friends may suffer. That should induce persons to be more cautious in their offers. I don't think it makes landlords or their factors less careful. I know that, as regards my own practice, the landlords look to the character of the man and his ability, and they are careful to inquire whether the farm is worth the money that is offered for it. I may mention that in 1858, when the folly of farmers in offering for farms was at its height, two valuable farms, on an estate of which I have the charge, came out of lease, the tenants being excellent men, and my advice to the proprietor was this,—'Don't advertise. If you do, you will be perplexed with offers of the most extravagant sort; but get your factor to value these farms, not with reference to the wildness that now prevails, but coming as nearly as he can to their true worth, and I will get another party to value them, neither of the valuators knowing that the other was employed.' He agreed to that, and we took offers from each tenant, telling them that we had got a valuation, and that if they approached that valuation they would get the farms. They came very close to the valuation. One of the farms was valued at £600 or £700, and the other at about £800 a year; and the one tenant was within £30, and the other within £25 of the valuation, or nearly so. I told the tenants that they must give us the amount of the valuations, which they agreed to do, and they got the farms, and have thriven in them. I certainly do not think that landlords, trusting to their hypothec, give undue credit for the payment of their rent. All the credit they give is in reference to the first year's rent, during which period the farmers have nothing to bring to market to meet their rent; but, after that first year, they pay regularly every year. Though it is in reference to a past period, they pay every year, from the time when they take anything to market to the end of the lease. It is merely a loan by the landlord to the tenant for the first year of the lease, and I don't think that would induce any man to entangle himself with a high rent for 19 years. I think that the present indulgence given to tenants is founded on most rational grounds, inasmuch as the rent is not exigible till something is got from the farm to meet it. I know very well too that, taking tenants as a class, many of them, perhaps the majority of them, think they are exceedingly well off if they can stock their farms; and I don't know what they would do if a year's rent in advance was exacted from them. It would press them very much. Men who have sufficient capital to stock their farms may make excellent tenants, and may be very prosperous, though they might not be in a condition to pay forehand rents. I do not think that the present law induces excessive or undue competition for farms. Farmers are apt to be over sanguine, and to offer high rents; and I know that, on many estates, there is a great disposition to get into farms by offering high rents, trusting to the moderation and kindness of great landlords, who are expected to give an abatement if the rent turns out too high. No doubt there are some landlords who do take rather high rents, regardless of the consequences, but I know very few who do so. As regards the landlords of whom I have spoken, there may have been a sequestration once or twice, but at this moment I could not name a single case in which we have had occasion to sequestrate.

To Mr Fleming.—In the case of a feu-duty, the superior is not entitled to follow the produce of the land after it has been sold and delivered. He does not need to do that, because he has the land itself, and the buildings, and everything on it; but, in the case of rent, the thing is gone and away.

To the Chairman.—I do not think that men without sufficient capital are in the habit of taking farms on the faith of the indulgence which the law allows landlords to give to them.

To Mr Hope.—I do not think that landlords can be said to be secured in two years' rent, because I have never seen the stock suffice for the payment of one year's rent. The landlord receives no profit on his farms, but only the interest of his money. Of course rents rise, but that is still just interest. Rents rise as the interest on bank stock or heritable bonds rises, but that is not profit.

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At any rate it never can be more than rent or interest during the particular tenant's possession. I think the landlord should still be allowed to follow grain for payment of his rent. It is no analogy to say that the purchaser of a pair of shoes in a shoemaker's shop cannot be called on to pay them a second time. The landlord has security over the shoemaker's furniture for payment of his rent, but business could not be carried on if a man was liable to have the shoes taken off his feet, because the shoemaker's landlord had not been paid his rent.

To the Chairman.—I am quite sure that, if I said that in all my experience of nearly 50 years I have had to direct twelve sequestrations on rentals of £100,000 a year, I am beyond the mark.

To Mr Murray.—On the estates to which I have referred, there are many tenants paying from £100 to £150 a year of rent for dairy farms. If the effect of any change in the law of hypothec was to make farms fore-rented, I have no doubt whatever that these men would not be able to continue in them. They are industrious men, and live in the most moderate way; but their whole capital is expended on their cows. They are most industrious, and pay their rents with great punctuality. I think it would be attended with the worst consequences if these men were driven out of the country. Mr Hope Vere's estate in Lanarkshire—an estate worth £5000 a year—is divided, with little exception, into farms at rents of from £100 to £200. I may say these are all dairy farms, and their steadings and houses, and everything else, are moderate in size, and suited for farms of that description. If these people were turned out of their possessions, as they would be if they had to pay forehand rents, that would infer a new distribution of the estate, and an immense outlay on buildings, and a sacrifice of a great many of the present buildings. These small farmers manage with wonderful economy. They are comfortably housed, and their families assist in carrying on the farm, and they pay their rents most pointedly. I do not think that the landlord's security would be increased if a number of these farms were thrown into one. I think it would cause a great deal of immediate outlay, and the proprietor would have less security, because he would only have one man, while he has at present perhaps ten. If the present class of farmers were driven out of these farms, I think they would be taken by men of large capital. But I would hold it to be a very great loss and mistake to dispossess the class of tenants of whom I have been speaking. I am quite satisfied that fore-renting would follow the abolition of the law of hypothec. If there was any change, I would think it absolutely necessary to make a more stringent irritancy of the leases in the event of a tenant falling into arrears. We know very well how difficult it is to get a tenant put out of possession under the present law; and if the present law were abolished, I think the irritancy should be made statutory. I doubt whether it would be advisable to publish sequestrations for rent in the *Gazette*. I have not considered that matter, but I should say that no such sequestration passes without its being known on the following day to all the people in the neighbourhood; and I would be afraid that the publication in the *Gazette* would make it more difficult for a tenant to effect an arrangement, because we know that arrangements are made between landlords and tenants though sequestration may have been used.

To Sir W. Gibson Craig.—The effect of publication might also be to injure the tenant's future credit.

To Mr Murray.—In the event of sale by sample being made equivalent to a sale in bulk, I consider that delivery and payment ought to be made necessary. I never heard a complaint from a tenant as to the law of hypothec in the whole course of my professional experience. I do not very well know to what to attribute the present agitation. I have seen it stated that it was derogatory to the character of a tenant to be under the law of hypothec; but it should be borne in mind that no man, not even the highest in the land, gets money without security. Money is lent to a man of position and of large fortune, but it is lent on the security of his property. No man would lend money to a pauper, though he was a peer. I have no doubt that it is the expectation of many of the present agitators, that they will get land at a lower rent; and I think that that would be the effect of an abolition of the law, because there would be less competition.

To Mr Curror.—I don't think that the landlord's hypothec, extending as it does for two years over stock and crop, has a tendency to keep the rents higher

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than they would otherwise have been. A tenant enters at Martinmas, and he reaps the crop. He has to pay his rent at Whitsunday and Lammas, and I have observed that at Lammas he has very little in his barnyard, because he has taken it to market. He has been permitted to carry on his business without let or hindrance; and, though nominally the landlord has a security for two years' rent, one over the crop and the other over the stock, still the tenant is permitted to diminish the one almost to *nil*, and the other is never equal to a year's rent. The security afforded by the hypothec enables persons with much smaller capital to offer for larger farms than they could otherwise have done; but I think that is an advantage, if the men are respectable and know their business. It is quite contrary to my experience that it leads proprietors or factors to take persons as tenants who have neither skill nor capital. A greedy or a foolish fellow will do a foolish thing in spite of law or reason; but, as a general rule, that is not the effect of it. As to the small dairy farms, I think the tenants would find a difficulty in paying fore-rent. These men have families to bring up. They educate them, and they have the laudable ambition to settle their sons in life, so that, after paying one thing and another, there is exceedingly little left in the pocket of a tenant of that sort at the end of a nineteen years' lease.

To Mr Murray.—Under a clause in a lease giving the landlord or incoming tenant power to take the crop at a valuation at the end of the lease, I have never seen it worked so as to enable the landlord to get payment of rent for which he had not the security of the hypothec; and, as a lawyer, I do not think that practically it could be so worked. If any such wild attempt was made, it could be frustrated by sequestration or otherwise.

To Mr M'Lagan.—It is not at all consistent with my experience that the character of the tenants of Scotland has greatly deteriorated. They are better educated men than they were in my early days, and I have no doubt that they are infinitely more skilful in their calling. More capital must necessarily be required for the management of a farm now than was required 20 years ago, because so much artificial manure is now required. On the other hand, the manual labour must necessarily be reduced, from the general application of machinery. I should think that tenants' capital must have increased within the last 20 years. Suppose the law were abolished, I think banks would not be inclined to give tenants accommodation more readily than they do at present, for accommodation is never refused to any man because he is a tenant, if he is respectable and well-doing, and he would not get it unless he was so, even if there was no law of hypothec. I think the landlord is the best creditor for the tenant to have, because he has the greatest interest in seeing that the business of the farm is rightly conducted. I think it is a mere fancy to suppose that tenants would quite easily get money to pay fore-rents. I don't believe the banks, for example, would be at all disposed to accommodate them for that purpose. Besides, the banks never would give a permanent loan to a tenant; whereas the landlord gives him a permanent loan of one year's rent at a very low rate of interest.

To Sir W. Gibson Craig.—A good tenant, entering on a 19 years' lease, proceeds to put the farm into good order as rapidly as he can, in order that he may get as much return from it as possible every year of the lease; and one object of the law of hypothec has been, to leave the tenant in possession of as much capital as possible, in order that he may put his farm in such a condition. I think that is for the advantage of the tenant, and also for the advantage of the landlord. If the tenant paid fore-rent, he would have so much less capital to improve his farm, and less time to get his return. If the law were abolished, I think it would change the kindly and confidential relations between a landlord and his tenants. I hold that you must give the landlord some security. The law never could permit the landlord to be dealt with as a common creditor; and if the law of hypothec were abolished, many of them would be in a state of restless anxiety, and they would be taking steps which would make the tenant less fitted to enter on the business of his farm, and in that way great loss would necessarily arise. The landlord's rent is only exigible at fixed terms, but guano merchants and other dealers can demand their money when they choose, so that, if the law were abolished, they would be in a better position than the landlord, and they would very likely get a preference by getting their accounts paid.

Monday, January 16, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.	MR HOPE.
MR MURRAY.	MR M'LAGAN.
MR FLEMING.	MR CURROR.

(39.) MR JAMES DRENNAN.

James Drennan.

To the Chairman.—I am a farmer at Holmston, near Ayr. My farm is all arable. It is nearly 250 acres in extent, and my rent is a little over £700. My term of entry is Martinmas. That is the general term of entry in Ayrshire for arable land. I entered to the whole farm at Martinmas. The landlord has power, by my lease, to exact payment of a half-year's rent at the first Whitsunday before I reap my crop; but the practice on the estate has been to pay the first half-year in November following, although the lease bears Whitsunday. I have not personally experienced any inconvenience from the law of hypothec. I have not experienced any inconvenience from it indirectly, that I am aware of, unless from its affecting competition for land. I think it has affected competition in some degree. I think it has a tendency to create undue competition. In some cases there are offerers accepted, who very probably would not be accepted but for the law of hypothec. I mean both men of insufficient capital, and men of insufficient skill. It is difficult to say whether cases of that kind are numerous in Ayrshire, but I do know instances in the county. I can form no opinion as to the number of such cases. One becomes aware of them now and again in different parts of the county. Those men of insufficient capital or skill, who have been preferred for farms, have generally been unsuccessful. That is the only injurious influence which, in my personal experience, the law of hypothec has had. It seems to me unjust to cause a *boná fide* purchaser from a farmer to repay the money to the landlord. There has been only one case of that kind within my knowledge till lately. I heard the other day of another case; but neither landlords nor tenants in Ayrshire seemed to be really aware of what the law was till lately, at least a number of them. I conversed with a very intelligent county gentlemen when the case of *Barns* v. *Allan & Co.* was going on, and he was unwilling to believe that he had any such power, or that any such law existed. There is the case of *Barns* v. *Allan & Co.* that I know of, and a case that has arisen in the neighbourhood of Kilmarnock lately. I hear of sequestrations of farmers for rent pretty frequently in my part of Ayrshire, but not upon the estate of which I am a tenant. I understand that the losses of general dealers from sequestrations of farmers in Ayrshire have been considerable, but I have come very little in contact with them. I would incline for a total repeal of the law of hypothec, rather than for an extensive modification. I would be a little doubtful as to whether the repeal of the law should affect existing leases. I rather incline to think that the rights of parties under existing leases should be preserved. With that exception, I would advocate a repeal; my grounds for holding that opinion being that, in point of public policy, I think the law is injurious. Tenants are not selected with that degree of care, in every instance, that they probably would be if there were no such law. I would leave landlords and tenants to settle the question of security themselves. If the landlord is desirous of obtaining security, he can very easily have it. He can fore-rent the land if he thinks fit, or get personal security. Of course there will be an equivalent in lower rent in such cases to the tenant. The portion of the tenantry I come in contact with generally incline to the repeal of the law. I cannot answer for other tenants, but I would be quite willing to submit to fore-renting, if that were a necessary result of the repeal of the law. I think I would get an equivalent in lower rent. I would be equally well off, if I got a reduction in rent of say 6 or 7 per cent. What I understand to be fore-renting is payment before a return

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is got from the land. I am fore-rented already by the lease, but not practically. Perhaps the landlord would exercise his power to exact it, if hypothec were abolished; but he is a just man, and would give an equivalent. I do not think the abolition of the law of hypothec would have much effect in shortening the duration of leases. The landlord, like the owner of any other property, would consider the best thing he could do with his land; and if he found it still to his advantage, after the law was repealed, to let the land on lease, he would do so. I cannot say whether the abolition of the law of hypothec would have any effect in making the lease dependent on the individual tenant who is selected. That will depend on the views landlords take of it. I have thought a little on the position in which the landlord might be placed, in letting his land without the law of hypothec, from the fact that, though he might have full confidence in the present tenant, he cannot be aware who his heir may be; and I would merely say it is for the landlord to consider what security he would have in a case of the kind. I have not considered what I would do myself in that way if I were a landlord.

To Mr M'Lagan.—I have no doubt that the present law of hypothec operates prejudicially against tenants getting credit from banks. I think that, if the law were repealed, tenants would get money more readily from bankers than they do at present. If the banks were to advance money after the repeal of the law, they would of course ask security; but in the meantime, even with security, farmers can scarcely get credit. I hear them saying that they can scarcely get loans even for a short period. The landlord is as well entitled to security on letting his land for nineteen years, as the banker is on lending money for a few months. I would allow the landlord to seek as much security as he thinks fit. If he asks too much, he makes the farm less attractive; and if he likes to take a little risk, he will get more rent. The landlord is entitled to ask for any security for which he may like to stipulate. I do not think the majority of tenants are in a very good position just now. We have many small farms in Ayrshire. I think the position of the small tenants in Ayrshire could not be much worse than it is. There is a great amount of distress amongst the small farmers. Six or eight years ago there was an extraordinary competition for farms, and especially for small farms, but that is not now the case. I think the tendency of the law of hypothec is rather to widen the sphere of competition—to what extent I do not know. The high prices some years ago made people hopeful, and that was one cause of the competition for farms. Then there was a little increase of capital, on account of the high prices following the Crimean war. These things all tended in one direction, and the result is, that a great deal of land is rented too dear. I do not think there has been a very great influx into farms from other professions. The competition has been mainly amongst farmers and farmers' sons, although there have been some offerers from other professions. The farmers have been, beyond all doubt, somewhat to blame for offering these high rents. There have been a few gentlemen coming in from other professions in Ayrshire, but not so many as in other places perhaps. If the law of hypothec were repealed, I think the tenant would be in nearly as good a position if he paid a fore-rent, as he is at present. It is the same as if he had a sum of money advanced on a bond or anything else. The tenant is known to be in a better position if he has paid the fore-rent, and he would be so much the more likely to obtain credit from others. Supposing a banker were to lend a tenant money, he would have it in his power to call up the money whenever he thought proper. There might be an occasional extreme case, where the tenant might be called upon by the banker to pay at a very inconvenient period; but, as a rule, I think a deserving man would still obtain credit, although a particular banker might incline to call up his money. The man who lent his money would of course be inclined to call it up when he saw the tenant going back in the world; but I do not know that in every case that would be an evil to the tenant. Just now landlords are inclined to be humane when a tenant gets into difficulties, and the tenant goes on expecting, year after year, to be better, and it ends with this—that by and by there is not much more than meets the landlord's demands, and the tenant goes out with nothing. I think that, in many cases, rather sharper practice would be for the benefit of the tenant. I believe many a deserving man has been benefited by his landlord granting him time; but I can scarcely call it indulgence or leniency, for the landlord is perfectly safe.

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To Mr Curror.—The case near Kilmarnock, to which I referred, arose in this way:—An innkeeper in Glasgow bought a quantity of hay from a farmer near Kilmarnock, in August. I do not know when he lifted it; but he has lately been called upon to repeat the payment, by the landlord following up his right of hypothec. On some other estates in my district I understand the leases are drawn in the same way as mine, and there is the same indulgence granted. It gives the landlords power to call up the rent earlier; but, except in one case where there was a difficulty about game, I never knew the power exercised. There is perfect confidence among the tenants that they will not be called upon to pay at the terms mentioned in their leases. They never take it into account at all. I did not take it into account myself. There are a great many small tenants in Ayrshire. A number of them are paying from £100 to £200 of rent; many below that. They are generally in difficulties, particularly the occupants of heavy land. Many of them are no better off than grieves or ploughmen. Some of them have said to me they are worse. They work as hard, and live almost as frugally, as ploughmen, and they have much anxiety on their minds. I am sorry to say there are a great number in that position. The abolition of the law of hypothec would very likely put some of them out of their farms. It is a common remark, that there is not enough of capital employed in the cultivation of the land. I would have no fear of enough of capital being got to cultivate the land properly, if it were fairly rented.

To Mr Fleming.—Where farms are generally rented too high, I think there would be a fall if the law of hypothec were abolished. I think a large proportion of farms are rented too high in my district. I would anticipate a considerable reduction in Ayrshire; but, where land is properly rented, I do not think that the abolition of the law would have any effect at all. I would rather not express an opinion as to whether the landlord ought to be satisfied with fore-renting as a security, or as to what security he ought to be satisfied with. I would let him judge for himself. I am inclined to think that landlords, like other people, would take a little risk, particularly in large estates, and derive the consequent benefit. If the law of hypothec were abolished, the landlord might have either the security of fore-renting or personal security for the rent. I think generally that fore-renting would be a sufficient security. Without the law of hypothec, the landlord would be in the same position as other creditors with the second half-year. As to the first half-year of a lease, there is plenty on the farm then. I would abolish his right to seize preferably what is on the farm. Supposing the tenant got into difficulties after the Whitsunday term, when the crop would be on the ground unreaped, the creditors might step in and reap the crop, and leave the landlord to rank on the estate with the other creditors. With fore-renting, the landlord would be in a better position than if nothing were paid till Martinmas, in the event of anything going wrong during the summer, after Whitsunday. If the difficulty arose before the Whitsunday rent was paid, he would rank with the other creditors. In that case fore-renting would give the landlord no security. I can see no reason for giving the landlord any other security than he chooses to stipulate for; and it is for him to consider whether it is for his advantage to be content with fore-renting, or to ask more. I would advise the landlord to be content with fore-renting; just to have a little faith, like other people. There might be a case, of course, in which he would lose, but, in the aggregate, he would be right enough if careful in the selection of his tenants. I cannot very well speak for mercantile men, but, as regards the farmers, I think they suffer from the law of hypothec merely in this way, that offerers for farms are accepted who should not be accepted. Such men are generally the more reckless offerers; and the best tenants, when they offer for land, take into account that they have to meet with them, and are induced to offer more than, in their calm judgment, they would be inclined to offer. They suffer, I think, in that way. I could state cases where tenants were preferred simply because they were the highest offerers. In one case I conversed with the factor, twelve or thirteen years ago, and asked how it was he had chosen a man who knew little or nothing of the management of an arable farm, who had not half enough of capital, and who had offered too much rent. He admitted it all, but said that the offer was tempting, and that he had the promise of security that a stock would be put upon the farm. I can speak as to the result of that

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case. The tenant went on ten or twelve years, worked hard, lived low, and was rouped out. He lost a number of the best years of his life, and his friends lost also. That was the result both of want of capital and of insufficient skill for the management of the farm, but chiefly of the want of capital.

To Mr Hope.—In the case I have just mentioned, the landlord suffered in the end. He did not get his rent in full the last year; but, if you take into account the extra rent he received for ten or eleven years, he was far from being a sufferer.

To Mr Murray.—In Ayrshire, the small tenants are a hard-working class. I believe every hard-working man is valuable to the country. If the law of hypothec were repealed, and the farms were fore-rented, a number of those small farmers might go to other occupations, and be a great deal better. A number might not be able to keep their farms. Men of a little more capital, of course, would take them. There are a number of people just now who say they are willing to take farms, but they cannot get them in a way they can live in them. That class of men would step in. They would expect to get the farms at a lower rent, where they are too dear. There is no great tendency in Ayrshire to throw arable land into larger farms. With our climate, large arable farms are not worked to great advantage in the heavy inland districts. In the lower part of the county, the farms are larger. Suppose rents were prepaid, a half-year's rent being payable on entry, that would affect a more numerous class of tenants than fore-renting; but their credit in other respects would be so much better, that it would be almost an equivalent. I do not myself know anything about urban hypothec, but I hear it said that, when landlords of houses have to apply the law, they might as well let people go, as what they can seize is of so little value to them when expenses are deducted. A respectable class of people, who have valuable furniture, pay their rents; and, with regard to the class of tenants in whose case the law has to be applied, their furniture is little worth. If there is to be a modification of the landlord's hypothec, I should think it better to abolish the present law, and substitute statute law, so that the scope and extent of the law may be fully understood.

(40.) Mr DAVID CUNNINGHAM.

David Cunningham.

To the Chairman.—I rent the farm of Chapelton, near Ardrossan, in the parish of West Kilbride. The extent of my farm is 270 imperial acres, and my rent is about £450. I have been 36 years in the practice of agriculture. My farm is arable, with a very small portion of it pasture—about 20 acres. We enter to the ploughable land about Candlemas, and to the houses and grass at Whitsunday, and we pay the first half-year's rent at Martinmas following. In the estate and district where I am, that is the common mode of entry. I have personally experienced no inconvenience from the law of hypothec. I do not approve of the law. I think the law is against the interest of both landlord and tenant. The landlord, knowing that he has the law of hypothec, accepts tenants of neither skill nor capital. These get into his farm and injure it, and then go to the wall. It is rather from his own imprudence that the landlord suffers. That has very frequently been the case in my experience, but not on the estate on which my farm is situated, which is as well managed an estate as there is in Ayrshire. That is not the only respect in which the law injures the landlord. The landlord, I think, by introducing a tenant with capital and skill, would get his land well farmed and improved in a more economical way. I look upon farmers as being the proper persons to improve the farm economically; and the landlord, in this respect, injures his own interest by taking tenants who have not skill. I attribute that entirely to the law of hypothec. The law injures the tenant by locking up his credit with the banker or capitalist. I do not see that it gives him credit with the landlord. I do not see that the tenant gets credit from his landlord under the present system. The tenant gets a piece of matter to work upon, and if he pays his half-year's rent six months after the date of entry, and so on, I cannot see how he is getting credit. I think the terms at which I pay my rent are fair and proper terms. If the law of hypothec were abolished, the tenant would get credit from the capitalist. If he had his farm in good condition, stocked,

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and a crop in the stackyard, I think he would be legitimately able to raise money. In seasons such as the past seasons, when the crops are not in a good condition to go to market, he would be able to raise money sufficient to pay his rent; whereas, in present circumstances, he is forced to get rid of the crop at a disadvantage. I have had conversations with bankers, in which they informed me that they were instructed not to give tenants credit, on account of the existence of the law of hypothec. On the grounds I have stated, and on other grounds, I would entirely abolish the law of hypothec. I think that for some years past the law has borne peculiarly hard upon the small tenants. That class have a very small turn of money, and, when seasons are bad, they cannot go to the bank, as they are not known there. They cannot go to raise money, and they have to sell their grain at a very great disadvantage; and when they go to the manure merchant to purchase manures, the first-class manure merchants are not willing to deal with them, and they have to fall back upon a class of men more ready to deal with them, and who give them spurious manures, and take the risk, because they have not much to risk. The small farmers suffer in that way. I think that these small tenants would get credit from the banks and from the manure merchants, if it were not for the law of hypothec. In my district, these small tenants pay as near fore-rents as I do. The small farms to which I have been alluding are from 50 to 100 acres. The tenants pay from £50 to £100 of rent. These small farms are generally an inferior class of land. The tenants pay rents on the same terms as I do. I think these small tenants never got there on account of their capital. They were mostly farm-stewards, and servants about gentlemen's places, who were very industrious, and who attained to their present position because the landlords were willing to encourage them. I do not think they hold their farms because they have capital, and I do not think they are in a position to pay fore-rents. I think the system of prepayments would be incompatible with the class who now hold these small farms. I am afraid the most of these would go to the wall. It would be a class of men with small capital who would take their place, because only men of small capital would take these farms. There would be no difficulty in getting men of small capital to hold these farms, even with prepayment of rent. I would have the abolition of the law to apply immediately. I do not see any necessity for extending it over the lease. So far as I recollect, when the corn laws were abolished, nothing was done to protect existing leases. I think this would be just something of the same nature.

To Mr Murray.—My farm is an agricultural farm, partly dairy and partly ploughable. I work upon the five-shift rotation, and there are two shifts in pasture. Under my entry, I reap a portion of produce from the farm before I am called upon to pay my first half-year's rent, but no more than the fair average of an arable farm, not managed under the dairy system. I would have a portion of the dairy produce.

To Mr Hope.—If my land had been grazed with sheep, it would have made no difference in the amount of money received at Martinmas.

To Mr Murray.—I do not say that the small farmers would go to the wall if the law of hypothec were repealed. That must be left to the landlords; but it is evident to me that, from the effect of the law of hypothec, they have lost credit from the public, and they must go to the wall unless their landlords take them up anew. I think it is their present state undoubtedly, that will make them go to the wall. It looks at present as if they must go to the wall in any event, unless the landlords take them up. One great objection I have to the present system, as regards the small tenants, is, that it prevents them getting temporary loans from bankers and others. Suppose I were told by bankers that they did not give a man less credit because of the law of hypothec, that would not alter my opinion, because I have my mind made up that still the prohibition is there.

To Mr Fleming.—I am not under the impression that rents would fall much. I think they would be equalized. I think the tenant ought not to pay rent for his land till he has reaped the fruits. I draw a distinction between land and cotton in that respect, for, though both are inert matter, cotton can be brought very early into the market. The purchaser of cotton must manufacture it before he can dispose of it, but he can do so immediately, and turn over his capital many times in the year, whereas the farmer has only one return. *Q.*

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But do you think that, in all business, a person who purchases inert matter is not called upon to pay for it till it is in such a shape as he can sell it?—*A.* That is a question of business between man and man—the merchant and the cotton-broker. I think it would be very bad policy in the landlord to ask rent from the farmer till he has reaped the crop. The landlord has both the tenant's skill and his capital on the farm, and I do not think that is an absence of security. The landlord should look after the tenant, if his capital is gone. I have known cases of the tenant losing the capital which he originally brought to the farm. I do not think the landlord should have any security against the occurrence of such an event.

To Mr M'Lagan.—The smaller tenants would get capital advanced them more readily if there was no law of hypothec. That capital would not be advanced without security. I think the landlord has security when his land is stocked and kept going. I do not think the landlord is entitled to security on the ground that his tenant might die during the currency of a nineteen years' lease, and he would not know who might succeed him. I have no doubt that lenders of money would still make advances to tenants with the same security, though prices continued as low as at present. They would be more wary of what they did; but if they saw a farmer with his farm stocked, they would have no hesitation in trading with him. If the tenant were obliged to sell his crop to pay his debt, by receiving a temporary loan he would delay the sale till spring, when the crop would be in a better condition to take to the market, and, on that account, it would be of more value. In Ayrshire we have a very humid climate, and grain is of very little value before Martinmas.

To Mr Curror.—Suppose the tenant required an advance, it would merely be till his grain got into good condition for selling, and not on the season.

To Mr Hope.—I think the law is detrimental to landlords as well as tenants. It does not confer any advantage upon well-managed estates. There are some landlords upon whom the law will confer a momentary benefit; but I do not think that eventually they will reap any benefit from it. That is the reason I approve of abolishing the law at once, without reserving existing leases.

To Mr Fleming.—A certain class of landlords, if they have the benefit of the law of hypothec, would certainly get their whole rents paid. The law of hypothec does not confer a benefit upon the landlords in this respect, that they derive a larger rent than they would otherwise do. It benefits them by securing them over other creditors. The law of hypothec has undoubtedly led to an undue increase of rents, but I speak of it generally. Many landlords do not raise the rents; but, wherever land is advertised, and the highest offerer taken, the law must have the effect of raising the rents. I have known, in my district, a man of industrious habits preferred as tenant because he was the highest offerer, although he had not capital.

To the Chairman.—There are no bulk markets in the county of Ayr. I am at a loss to see what could be done in the way of modification of the law of hypothec. It would be fair to make sale by sample equivalent to sale by bulk, but that would still leave the main points of the law a burden on our backs.

(41.) Mr THOMAS STEELE.

Thomas Steele.

To the Chairman.—I have been 17 years a grain merchant in Ayr. I sell considerably to the farmers. I do not purchase so much from them as some others do. My sales to them may reach from £20,000 to £25,000 a year. My purchases are smaller, and are perhaps from £5000 to £6000 a year. My dealings are principally in Ayrshire, Wigtownshire, Dumfriesshire, and a little in other counties. I sell manure, bones, bone manure, and sulphate of ammonia and nitrate of soda. The dealings I have spoken of include manures. I have found the existence of the law of hypothec prejudicial to me in my trade, in respect to the very great preference it gives to the landlord in his claim. We find, as a rule, that, upon agricultural estates, the dividends we get are quite trifling as compared with those we get from commercial estates. I could not state the number of cases in which I have sustained losses for a number of years, but I took ten cases of farmers' estates, and ten cases of commercial estates, the first that turned up from my books, without selecting either the one

or the other. The ten cases of agricultural estates extended over the last six years. The statement of dividends on both estates is as follows:—

No.	Agricultural Estates.	Commercial Estates.
1	No dividend.	14s. per pound.
2	No dividend.	No dividend.
3	No dividend.	3s. 6d. per pound.
4	4s. 0½d. per pound.	9s. per pound.
5	No dividend.	5s. per pound.
6	3s. 6d. per pound.	10s. per pound.
7	No dividend.	1s. 4d. per pound.
8	5s. per pound.	7s. 7d. per pound.
9	2d. per pound.	4s. 6d. per pound.
10	5s. per pound.	7s. 6d. per pound.

The average dividend from the whole ten agricultural estates was 1s. 9¼d. per pound; while the average dividend from the ten commercial estates was 6s. 3d. per pound. There would be a larger sum involved in the commercial than in the agricultural estates; but these are the dividends per pound. I cannot tell the total amount of money I have lost on agricultural estates within the last ten years. I cannot tell what proportion of my whole dealings in agricultural cases has resulted in loss. I did not think of putting it in that shape. I cannot exactly state whether there would have been a proportion of the loss upon many of the estates, even though there had been no preference to the landlord, unless I knew the number of years' rent claimed by the landlord. I should say that, in the majority of cases I have named, the rent for two years was claimed, and in that case it absorbed the whole estate. There might be one or two cases where only one year's rent was claimed, and, in that case, a little would be left to the creditors. Recently, in dealing with the farmers, we have been aware of the preference the landlord had. Not long ago we were not aware of the great risks we ran; but our eyes have been opened recently to the fact, in ways which we could not mistake. Undoubtedly we must regulate our prices in consequence of that risk, if we understand our business. We find that the risk upon agricultural estates, as compared with commercial, is something like four times as great; and, for that additional risk, if business men understand their business, they will put on larger profits. My dealings with the commercial classes consist in selling grain to them. I import foreign grain, and sell to other grain merchants in Ayrshire as well as to farmers. Latterly I have adopted the system of giving invoices, with a distinction between cash and credit prices in double columns. Some few agriculturists, with whom I deal, avail themselves of cash prices; but unfortunately, as Ayrshire is situated just now, it is only a few of the more substantial that are able to avail themselves of such terms. If the law of hypothec were abolished, I do not think they would be all able to pay cash, but I think they would then be in a position to come into the market and get credit on the best possible terms, which they certainly are not at present. Almost every week—at least very frequently—I have occasion to refuse men credit, in whose honesty I have every confidence, and in whose ability to manage their business I have also perfect confidence. It is a most painful position in which to be placed, but still I am obliged to refuse these men credit because of this law, knowing the result in former cases. I have just to tell them plainly our risks in dealings with agriculturists, and to say that, if they were free from those arrears with the landlord, and if the landlord had not so great a preference, I would have great pleasure in giving them credit. Suppose they were not in arrear to the landlord, I would still have a difficulty for this reason, that, although they were not in arrear, I do not know how soon the landlord might come in and sequestrate for fore-rent, as well as the back-rent. We had a case recently, where a farmer, who had never formerly been behind, happened to get £165 into arrears. The rent was payable on the 11th May, and there was nothing said about it by factor or proprietor, and the tenant allowed it to stand over, intending to pay it in two or three months. On the 14th of June, his whole estates were sequestrated for this balance of £165, and all he had in the world was hung up for it. He fortunately happened to be in pretty good circumstances, and the next day he called and paid his rent to the landlord. This, of course, removed the seques-

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tration, but it did not remove its effects; and these are not removed yet, for his credit has been injured in all respects. He goes to his banker to get paper discounted, but the banker has heard of this sequestration, and shows him the cold shoulder. Then when his crop comes to be reaped, he tries to sell it; but the fact of his sequestration has got abroad, and he finds that it meets him at every turn, and he has to sell his produce at a disadvantage. All the open accounts which stand out come in upon him at once; and, had he not been in a very fair position, he would have been rendered bankrupt.

To Mr Murray.—He was able to raise money to pay the arrear of his rent, although he had not the money lying beside him. He said to me that his farm was paying badly, and he thought it was a small indulgence to allow part of his rent to lie till his crop was ready for the market. I cannot say whether he applied for the landlord's authority for the indulgence.

To Mr M'Lagan.—He says that he received no warning whatever that he would be sequestrated. £265 was the amount of the rent. He paid £100 of it to account, and said he would settle the balance in about three months.

To the Chairman.—I did not ask him how he raised the money, but he told me that he paid the money next day. The law of hypothec has injured his credit since that time. It has put him in that position, that he cannot ask credit, as he could have done otherwise.

To Mr Murray.—*Q.* Would it not be true of any man who did not pay his debts when they were due, and against whom legal diligence had been used, that his credit would be affected?—*A.* Well, it would be known at once how a commercial man in such circumstances stood, because, in many cases, payment of a claim of that kind is postponed without any injury to the debtor. He may say, 'I will pay you in three months,' and the creditor may be satisfied. If he is not satisfied, and comes down upon the debtor, then it must be known immediately afterwards whether he is bankrupt or not bankrupt; while, in the case of a farmer, the sequestration may be going on, and the public not know. If a mercantile man did not pay his debts, and was put in the black list, it would affect his credit. The law of hypothec is answerable for the evil results in the case to which I have referred in this way, that landlords say they can afford to give a tenant indulgence, and this is a case in which little indulgence was given. I am giving that case as an instance of hardship which occurred under the law of hypothec.

To Mr Fleming.—Supposing there had been no law of hypothec, the landlord could have taken out diligence; but it never could have had the same effect, because the money would have been paid, and the thing would have had an end. But now it puts him at a disadvantage, owing to the power of the landlord. With no law of hypothec, the landlord's power would cease with the payment of the money; but with that law, the landlord's power does not cease. The difference between a man paying a bill which is past due and the case I have noticed is, that when the money is paid the bill falls to the ground, but the sequestration falls to the ground liable to be renewed whenever the landlord thinks fit; or, in other words, the tenant is in the power of the landlord all through his lease.

To Mr Murray.—I could give instances in Ayrshire where the rent was even paid, and sequestration was taken out for prospective rent. I believe I could find an instance where a man was sequestrated who had no arrears standing.

To Mr Fleming.—In the case to which I have just referred, the landlord alleged that the tenant was on the eve of bankruptcy.

To the Chairman.—I would advocate the total abolition of the law of hypothec. I have not thought much over the question, whether the rights of parties under existing leases should be reserved. It certainly would apply harshly that existing leases should be interfered with, but it would come very awkward in practice if they were not interfered with. I should think that, if the law were to be abolished, all should come under it. I think it should apply to existing leases from the time it came into operation; but it might be a prospective repeal, not to come into operation for a certain number of years. I have thought over giving the landlord security, and I cannot see any principle on which he should have any security. The circumstances of agriculture are very much altered of late. Formerly the rent to the landlord was the heaviest item of outlay upon the farm, with a little for lime; but now the general public come in as creditors to a much greater extent than the landlords do, and I do

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not think it is reasonable that the landlord should have any additional security. I do not think that any distinction should be drawn between a man who ties up his land for nineteen years, and a man who is dealing with the tenant from day to day. It would be for the landlord's interest if he left his tenant free and unfettered; and for this reason, that it is a well-known fact, in the annals of farming in Scotland, that the capital employed upon it is quite insufficient for it. That is the case in many other trades as well as in farming; but in general business parties are in a position to go in upon the best terms for credit, which tenants are not, under the law of hypothec as it stands; and I hold that it would be for the advantage and interest of the proprietor that his tenant should be prepared to go into the market on the best terms for credit, to supplement the want of capital that there is for the business. Credit is very essential in all business, and no class would get it more readily than farmers, if it were not for this law. They require to go to their agricultural implement-makers for a great many things they formerly did not require. They require to go to the seed merchants for seed, and to the manure merchants for manure. Credit from such merchants is now curtailed. I know cases in Ayrshire where a deficiency of crop existed last year on the smaller class of farms, because the tenant could not get credit for manures to put into the ground to raise a full crop. If the law of hypothec were abolished, I think that the landlord would, in the first place, look out for a substantial man as his tenant—as far as possible, a man who understood his business, and was a legitimate farmer; and that then he would make him pay six months' rent after he had been six months in possession, or some such arrangement as that. Others might have so much confidence in their tenants, that they would not ask rent sooner than the average postponement under the present law; but that is a question between the parties. If the law of hypothec were abolished, the landlord would be in as good if not a better position to judge of the circumstances of tenants, than other parties who are dealing with the tenants. The landlord is on the estate, or the factor is there; and the landlord should be able to know the position of his tenant, and be able to judge for himself, and protect his interests at common law, if he found any circumstances suspicious. I do not see that, unless the landlord exacted prepayment of rent, he would be exposed to the chance of all the other debts being paid before his rent, so as to transfer the preference at present enjoyed by the landlord, to the corn and manure merchant. The other creditors might with more reason argue, that the tenant would try to secure his landlord's interest, because, if he wished to continue on the farm, it would be his interest to pay his rent before everything else. The landlord must insist on prepayment, if he must be paid before the others are paid. But I hold that he has no right to prepayment. I do not see why he should get rent for land that has not borne any produce. I think no rent should be payable till the crop has been reaped. I do not think that, as a general rule, the landlord would find it necessary, for his own security, to exact forehand rents, if he lost his law of hypothec. If the same system of letting land were pursued as at present, no doubt, in many cases, it would be very necessary for the landlord to exact forehand rents, if land were let—as I think, in the majority of cases in Ayrshire, land is let—without respect to either skill or character, and to a very great extent to means, but merely to the highest offerer. I believe I am speaking safely, when I say that the rule in the majority of cases is,—that, whether a party should be a farmer, a butcher, a baker, or a draper, or whatever he is, if he offers the highest rent, he is generally accepted. If that rule is continued, forerents would be very necessary. The majority of farms in Ayrshire, let of late years, have not been let to non-professional parties. What I mean to say is, that when a farm comes into the market, in place of legitimate farmers coming to compete for it, it is open to the competition of all and sundry; and they are all placed on the same platform, as a general rule, whether skilled or unskilled, if they promise to pay the rent. I can give you instances in which this was done. A farm in the Carrick district was let, about three years ago, in the usual way. In this, as in most cases in Ayrshire, the highest offerer got the preference, although he was non-practical. He came from a neighbouring city, and little was known about his means; but, having been preferred among a number of offerers for a large farm, he at once acquired position, got credit for seed, manure, stock, etc., and in three or four months all was right for the proprietor. In little more than a year the tenant was bankrupt. The assets, after paying

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the rent in full, would have yielded a dividend of 7s. 9d. per pound; but the protection of the law of hypothec to the landlord compelled the creditors to carry on the estate for another year, at the end of which time, on making up the accounts, it was found that, instead of having any dividend to receive, a call for a small amount would be requisite to pay the lawyer's bill and other expenses. In this case, even the poor lawyer suffered; but the landlord was all right. The same farm had previously been let to a non-practical party of means, from the same city as the tenant just referred to; but he gave up the farm, as he was losing money very fast. The farm is now let to a practical farmer, at a reduction of £150 per annum. There are some instances we have, where landlords have received a benefit even from bankruptcy. In one case, a tenant entered in 1859, and was sequestrated in 1864. During his occupancy of the farm, he expended upwards of £800 in reclaiming waste land, carting material for a new steading, fencing, road-making, and other permanent improvements. The creditors have not yet received a dividend on this estate, but, after paying rent, there will be a surplus of 5s. 6d. per pound for them. In this case, the landlord, as usual, has got his rent in full, and he has had his farm so much improved, at the expense of his tenant and his creditors, that, in the opinion of all competent judges, it is worth at least £100 per annum more than when the tenant entered; but it is doubtful if this result could at present be realized, as the rent paid by the bankrupt was a very extreme one. In another case, the tenant entered his farm about 1854, and became bankrupt in 1858, the creditors receiving 8s. 6d. per pound; he became bankrupt again in 1863, and no dividend is yet paid, but about 5s. 6d. per pound is expected. The landlord on both occasions had his rent paid in full; and, from permanent improvements upon the steading and farm, executed by the tenant to a very great extent at the expense of the public, the farm has recently been let at an advanced rent of upwards of £100 per annum. The public, taking the average of the two dividends, lose 13s. per pound, while the landlord gets an increased rent of £100 per annum for nineteen years, which, capitalized at 5 per cent., represents a sum of £1200 in hand, as the proprietor's gain on the double bankruptcy. In another case, the tenant has been twice bankrupt within the last six years. On the first occasion, the creditors received a dividend of 12s. per pound. This was in 1858. The tenant is now again bankrupt; and, on the present occasion, the creditors are not likely to receive any dividend whatever. The landlord in both cases has got his rent in full; and so well has his interest been looked after, in the way of getting full supplies of manures, etc., put in, that in all probability he may receive the same, if not a higher rent, than the one paid by the bankrupt. In any of these cases I am not aware that there were any other preference creditors besides the landlord, except servants for wages. The risks that we run in purchasing grain in the west are very great, on account of the landlord's right to follow grain. They are better off upon the east coast for stock markets than we are in the west. Taking the counties of Haddington, Edinburgh, Linlithgow, and Stirling, as representing the east coast, and the counties of Ayr, Lanark, Renfrew, Dumbarton, and Bute, as representing the west, we find that, with a population in 1861 of 442,263 in the four eastern counties, there are eight markets for corn in bulk, viz. two in each county. In the west, with a population, in the five counties I have named, of 1,076,148, we have only one stock market, viz. Biggar, in the upper ward of Lanarkshire, quite cut off from the other districts of the county; there being three markets for corn by sample in Ayrshire (Ayr, Irvine, and Kilmarnock), and no corn markets of either kind being in the three other counties. From the agricultural statistics published by the Highland Society, taking the mean of the three years for which they were published, 1854, 1855, and 1856, we find that the average production of cereals, in these five western counties I have referred to, was 831,686 imperial quarters, which, taken at the low value of 26s. 8d. per quarter, represents £1,108,914. Then again, the total number of horses and horned cattle in those five counties, taking the mean of the three years I have named, is 212,105. Assuming that one-fourth of those horses and cattle require to change hands every year, we have then 53,026, which, at an average of £15 per head, amounts to £795,390. To these sums we add, for other produce sold—potatoes, turnips, carrots, cheese, butter, wool, etc.—£750,000. This last item is an estimate, as we have no statistics to guide us in that matter. The sheep in the five western counties number 529,944; and,

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assuming that one-third of those sheep, viz. 176,648, require to change hands every year, that would be equal, at 30s. per head, to £264,972. All these sums added together make up £2,919,276, as the amount of business which has to be transacted annually in these counties, all subject to repayment to the landlord ; and that, so far as the produce portion is concerned, liable, as I understand the law, for a period of many years, provided that the landlord can prove that the rent of the particular crop remains unpaid. I know a good many cases in which that portion of the law has been enforced, and there are more coming to light every day. We have several cases of *bonâ fide* purchasers being made to pay over again ; but what we object to is the risks we run, although there have not been many cases in the past. We would not consider it much of a privilege that sale by sample should be placed on the same footing as sale by bulk, so much of the business is done not in sample markets, but in places of business, and at farms. I would think it necessary that a *bonâ fide* sale, wherever made, should be protected. I would require that the *bonâ fide* sale should be followed by delivery and payment of the price, in order to put away the right to follow. I do not think that it should be necessary that any intimation should be given by the tenant to the landlord of the intention to sell. With respect to the risk of purchasers, I may state a case :—'A respectable flesher bought from a tenant-farmer, on 1st January 1864, 70 sheep at 24s. each (with four weeks' keep), and paid the same, amounting to £84, on 6th January, to the tenant who sold them. On 12th January, the farmer was sequestrated by the landlord for rent, and the sheep being still on the farm were included ; and on 19th January, before the purchaser could get delivery of his sheep, he had to lodge the price, £80, 8s., in bank (three of the sheep having died), as security for the landlord's claim. The farmer's assets not proving sufficient to meet the landlord's claim, the above amount has been lifted by him, and the farmer's creditors did not receive any dividend. These same sheep having been bought on credit and not paid, the seller loses all the value of them, and the purchaser has to pay the price twice over.' That case would not be met by the alteration I have suggested, because there had not been delivery ; but, according to the law of Scotland now, delivery is not necessary. It is enough if goods are invoiced over. In that case the purchaser would have received a respectable dividend, whereas he got nothing. The law, as I understand it, is this, that, if an article is bought and invoiced over to a purchaser, it is his to all intents and purposes, except for the law of hypothec. It was in the case of grain that I said I would require delivery. I think it would be reasonable to require delivery in all cases.

To Mr Hope.—The change which has been recently made in the commercial law of Scotland by the Mercantile Law Amendment Act of 1856, cuts both ways. I think it is rather a favourable change ; people understand their position better.

To the Chairman.—We feel a great want from the non-registration of sequestrations. I think they should be registered as mercantile sequestrations, even for the protection of farmers themselves. We have rumours in Ayrshire injuriously affecting farmers and their position, and no one can tell whether they are or are not sequestrated. I think, for the sake of parties themselves, it would be much better to have registrations of sequestration. I think it would be rather an advantage to tenants than the reverse, that they should be published. We complain very much that there is really no legal way in which we can possibly purchase, and be free from the landlord's right of hypothec. The Lord President laid it down as a dictum, that the law could be no hardship for farmers, as they could go about with rent receipts in their pockets. This was as absurd as it was impracticable, because the farmer reaps his produce in August or September, and he begins to sell it in October ; but the rent for that crop is not due till November following, in some cases not till the January following. How can he produce a receipt for rent which is not paid, or even due ? We really have no way in which we can do business, and be protected from this risk of the landlord's right. We think it fair that the landlord should take his share of the risk, seeing he is only one of many parties who have transactions with the farmer. Then there is another way in which farmers are injured by this law :—A great many farmers come in to offer grain for sale, from whom none of the dealers will purchase, because they know well that they cannot do it with safety. They are compelled to go to other districts, and sell their produce

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at a considerable reduction in price. Further than that, it causes in many cases a preference to be given to Irish, and even foreign grain, to save this risk of hypothec. In the case of oats, we have facilities in getting supplies from Denmark, Sweden, and other places on the continent; and if there is little difference between the two, this hypothec decides the balance, and the preference is given to the foreign grain. Application to factors is the only way we can protect ourselves, to see how the tenant stands with the landlord. That is very often done, but it is a very unpleasant thing to do. I know an instance which occurred the other day, where a small dealer in Ayrshire was sent for by a factor, and was told by him that he had been so foolish as to purchase a certain quantity of oats. 'Did you not know,' said the factor to him, 'that the man from whom you bought was under sequestration?' 'No,' replied the dealer; 'I had no idea of that.' 'Well,' says the factor, 'it is a fact that he was under sequestration, and you may be very glad that you have not got into a scrape.' And he was pardoned, and went away, thanking the factor very cordially for what he had done. These are positions in which, we think, we should hardly be placed, in fair, honest, equitable dealing.

To Mr Fleming.—As the law is, the landlord is perfectly right in following the grain; but I think the law which permits him to follow it is unreasonable.

To the Chairman.—I do not say the sale should be protected, if it is made in breach of sequestration. I bring forward these cases to show the advantage which would arise from sequestration being made public. There is one argument used in favour of the law of hypothec, that it enables men from the labouring classes to become tenants of small holdings. Now I hold that that is not quite in accordance with things as they would be, if this law were altered. The tenant has the postponed credit of his rent with the landlord, but against that he has to meet with the curtailment of all other credit. He has neither the facility to go to his banker, nor the chance of getting money from friends. I have known two or three instances where very deserving working men, after saving a little money, went to friends, and asked for a small loan of money to enable them to take a farm. The answer from their friends was, that, though they had every confidence in their honesty, they could not afford to lose the sums asked, and they might lose it all as things are under the law of hypothec, and they must therefore refuse to lend the money. Now I hold that, taking credit from all the community,—from agricultural implement-makers, and all others with whom they would have to deal,—such men would be better able even for taking the same holdings, without the law of hypothec. Persons dealing with a tenant know the credit that he gets from his landlord on account of the law of hypothec, but they don't know what his arrears may be. I should think they have no means of knowing the credit he gets from other parties. At present, the credit he gets from his landlord is preferential to all others, and takes all his estate when anything occurs. If this incubus on the estate were removed, he might get credit from other quarters, without those parties obtaining any preferential security. It is my impression that bankers are deterred from giving credit on account of the law of hypothec. *Q.* Suppose we were told by the directors of leading banks in the country, that that question never enters into their calculations at all in giving credit?—*A.* Very possibly in the principal offices they may not know these things so well. It would be the agents of the country districts that know the circumstances. The directors of the leading banks don't know all the details of the business of their country agents. The landlord has the security of the improvements put upon his farm. If he gets a good tenant, there will be permanent improvements put upon his farm at the expense of the tenant, immediately after entry, and he has always that as a security. On the other hand, if he gets a bad tenant, he gets his land depreciated; but he will require to protect himself from that.

To Mr Fleming.—It sometimes happens that a landlord gets his land back in a better, and sometimes in a worse condition, in cases of bankruptcy. I could not say very positively whether the cases are exceptions in which the landlord gets his land back in an improved condition. I have no hesitation in saying that, in the majority of cases in Ayrshire, land is let without reference to either capital or skill, but exclusively to the highest offerer. There are some estates where only practical men will be taken, and some where a considerable preference is given to old tenants; but as a rule, in the district of Ayr-

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shire that I represent—the district around Ayr—it is the rule to take the highest offerer; and we infer that, in consequence of that, land has been raised very much beyond its natural level, and no margin is left for bad times. Now we have a very serious state of affairs in connection with agriculture in Ayrshire. I am not prepared to state the per-centage of bankruptcies, but I do not speak beyond the mark when I say that, from 1860 till 1865, by the time the Whitsunday rents will be paid, something like 15 per cent. of the tenant-farmers in our district have been, or will be bankrupt, or under landlord's sequestration. Many of the cases are very painful cases. There are old men, sixty or seventy years of age, who have toiled all their lives, and saved three, four, or five hundred pounds, and all that has gone from adverse seasons—from a cycle of bad seasons and low prices together; and it is distressing to think of the hardship upon these poor people. Then again, all the creditors suffer, but the landlord has been thoroughly protected behind the battlements of hypothec. He has never suffered in almost any of the cases—I do not say all, because I remember one case where even the landlord did not get all, but he got 15s. per pound. In the district of Ayrshire of which I have been speaking, the land is held by different classes of proprietors—some of them large, a good many medium, and a good many small. The management is generally under factors. They are almost all lawyers. There are very few practical men factors in the district. We cannot blame the landlord for taking all the rent he is offered, but we think that the rents have been artificially raised by this means of bringing all offerers upon the same platform. I regard it as imprudent on the part of the managers of those estates, to act upon the principle of preferring the highest offerer. *Q.* Do you think any alteration in the law would make imprudent men prudent?—*A.* I do not say it is imprudent under the present law. They want to make the most of their estates, and they are thoroughly protected. Their interests are so thoroughly protected, that they can afford to ignore skill and capital altogether. I could not say that landlords generally get their farms back in an improved condition. If the landlords get their farms back in a deteriorated condition, it would be imprudent management to let to the highest offerers; but, protected as they are by the present law, I do not think it would be imprudent in all cases. They have clauses in their leases as to the management of the farm, and the tenant might be made to act up to them. Notwithstanding the protection of the law of hypothec, and the clauses in the leases, I am not in a position to say that the landlord gets his land back in a condition not deteriorated. I have given several instances where the land has been given back improved. I should say, as a general rule, that it will not be improved, but the reverse. I would think so, but I am not prepared to give instances from our district. The landlords will ultimately suffer from the course of management. I do not think they suffer now. It may be that, in some instances, the landlord will have his land deteriorated, and there may be a little suffering there for the time being; but, as the system has wrought in Ayrshire hitherto, I think there can be no doubt that this protection has been for the landlord's interest; but a reaction will take place, and it will go to the opposite extreme. I would suppose that, taking all and sundry as they come, the landlord, as a general rule, will get his land back in a deteriorated condition. I am not prepared to speak to facts to corroborate it, but that would be the tendency. So far as manures are concerned, the farm may be down a little, but there will be permanent improvements made, of which the landlord will get the benefit; and I should think the one will counterbalance the other. I am not quite prepared to say that the landlord will get an advantage from the state in which he gets his farm back, but in many cases he does, and in many cases it is the landlord's interest to sequestrate his tenant. It is customary, in the district of which I have been speaking, to sell grain by auction. I have known no difficulties arise as between the landlord and purchaser in cases of that kind. I believe it is common for the purchaser to grant bills for the price of the crop immediately after the sale. If he granted a bill with the crop on the ground, it would be subject to the landlord's right to sequestrate. I have not known any case where the purchaser has suffered hardship from that. If the sequestrations of tenants were published, the public would have an opportunity of protecting themselves; but, as things are at present, you may buy in the most *bonâ fide* way, and not know that you are acting in breach of sequestration. I think that, if there were publication as in mercantile sequestrations, that evil would

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be remedied. There is no record at present in the sheriff-clerk's office of tenants' sequestrations. They are not recorded in the same way as protested bills. There is no record of them whatever in our sheriff-clerk depute's office. If we had the same records as in protested bills, that would remedy the evil to some extent, because we could then get it by paying the fee for it. I have made particular inquiry as to this, and find that there is no entry made of the sequestrations; but a warrant of sale following upon sequestration must be entered. The capital invested in agriculture is, in my opinion, insufficient just now. I think the effect of the abolition of the law of hypothec would be to introduce more capital. One great source of the increased capital would be the extended credit, which would be given to those very parties who are now farming, but farming at a disadvantage from want of capital. *Q.* Do you think it is judicious for a farmer to enter upon a farm dependent upon credit from any source?—*A.* Well, the whole question of credit comes up there; and if it had not been for credit, Scotland would never have been what it is. That a farm should be entered entirely upon credit is not right. We complain of the law of hypothec, that it enables men to enter farms with little capital, and that it is a disadvantage to all parties. If it required £1000 of capital to stock a farm, it would be rather extreme for a tenant to enter upon it with £500, relying upon credit for the remaining £500; but, if he had £600 or £650, he might expect credit for the balance. For instance, there is no more legitimate article of commerce for credit than manure. You hand manures over in spring, and it is September, October, or November before the farmer is able to realize on such articles; and six months' credit is legitimate, if it can be safely given. I think it would be reasonable that the landlord should not get rent until the land has produced a crop. I hold it is reasonable that the manure merchant should lie out of his capital, in the same way, until the farmer gets the produce. I think it is fair that neither the landlord nor the manure merchant should get payment till the crop has been produced. Many landlords say there is so much pushing for orders among the manure merchants, that they have no sympathy with them; but if it had not been for the enterprising spirit of British commerce in furnishing portable manures, how could tenants have competed for farms, and paid the rents which they have done? But for Peruvian guano, nitrate of soda, and other fertilizers, tenants would never have been able to pay the rents which they are now in many instances paying. The risk we run in dealing with farmers is four times as great as we run in dealing with commercial men. That is the result of my calculation as to the dividends I have received. If you take the ten years preceding 1860, I should say that as many failures did not take place among each hundred farmers, as among each hundred commercial men, because these were years of high prices, consequent upon the Crimean war, and when there was agricultural prosperity, to a certain extent; but I suspect, if we have many years like the last four, the failures will be quite as numerous in proportion among farmers as among commercial men. During the last four years, bankruptcies have not been more numerous among tenant-farmers than among commercial men. I judge that our risks are greater with farmers than with commercial men, by taking the dividends received. *Q.* Don't you think there is a fallacy in inferring, from the fact that the dividends received from farmers are smaller on an average than the dividends from commercial men, that therefore the risk is greater in precise proportion?—*A.* I am not prepared to speak to that; but I think I am not far wrong in saying, that in practice the risk is four times greater in dealing with farmers than with commercial men. I would not look on the protection of grain sold in the sample market as anything, because we purchase so much in our own places of business.

To Mr Curror.—There are a great many sequestrations in Ayrshire, but I cannot speak as to the number of them. There were rumours recently that some of our largest and most respectable farmers were under sequestration, but it was impossible to discover whether they were so or not, and these rumours gave great annoyance to themselves and others connected.

To Mr Hope.—We charge, for two months' credit, 6d. per load of 280 lbs. of feeding-stuffs, in addition to the cash price. That is about 2½ per cent. Nominally this is the addition for one month's credit, but it is generally two months before the money is paid. Farmers are in such a position that they are obliged to ask that credit. Last week I was reluctantly obliged to refuse credit to a

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man who came a long distance, and whom I would have willingly trusted from his character. If the law were abolished, I would diminish the difference between cash and credit price. At present the sound and substantial farmers throughout the country are paying, to a certain extent, for their weaker brethren. Farmers would obtain credit in the same way as the mercantile classes do, if the law were altered. My decided opinion is, that the law of hypothec raises the rent of land. Small tradesmen suffer very much from the law, and in many instances they have to work for nothing, or almost nothing, while the landlord is paid in full. They don't understand what the law of hypothec is; but they have strong objections to it.

To Mr Curror.—Sequestrations are becoming very general. They are not upon any particular property.

To Mr M'Lagan.—They have arisen from bad seasons, low prices, and the rise in the rent of land.

(42.) Mr THOMAS M'CREATH.

Thomas M'Creath.

To the Chairman.—I am a grain merchant in Ayr. I concur in a good deal of Mr Steele's evidence. My dealings with farmers in the shape of sales do not amount to more than £3000 a year on an average. I buy £20,000 or £30,000 worth from them; and I have turned over on an average, since entering business, from £80,000 to £100,000 annually. The remainder of my dealings are with the commercial community. My loss from farmers has been equal to about 2½ per cent. on all my sales to them since commencing business. These sales are frequently for cash,—that is, cash in a month; and I have lost from their not paying. All these losses were by bankrupt tenants. One-half per cent. will cover all my losses from the commercial community since I have commenced business; and my sales to them are mostly for cash in a month. Perhaps 10 or 20 per cent. of them may be credit transactions. I don't think there is any material point upon which I differ from Mr Steele. I think it would be an advantage to industrious and well-doing small tenants that the law of hypothec should be abolished, and I don't think that in practice forehand rents would be exacted. I don't think it would necessarily follow that farmers would pay their other accounts before paying their rent. A judicious tenant, when buying manures, etc., would stipulate that the account should be paid after payment of the rent, because he would know that he would have a better chance of making terms with the merchant than with the proprietor. If the proprietor can put an end to the lease when the tenant fails to pay the rent, I don't think that the proprietor suffers any hardship in granting a lease for nineteen years. If the law were abolished, I think the non-payment of rent should operate as a statutory irritancy of the lease. I don't believe that the abolition of the law would make landlords unwilling to grant long leases. They could provide against the chance of a tenant's death, or of a person of whom they knew nothing coming into the farm, by excluding heirs as they now exclude assignees, though I don't think that that would be done in practice; but if they were excluded, they would be entitled to their outlay in connection with permanent improvements on the farm. I think the law acts very injuriously upon tenants in hard times, because they have to pay very dear for their credit; and they have to use inferior manures, because the profit on the genuine article is so small that they cannot get credit for it. The profit is large on inferior manures, and that has given rise in our district to an extensive trade in manures of that kind. I know of manure having been sold in Ayrshire at £12 a ton, which was analyzed, and found to be only worth 15s. It is the poorer class of tenants who are victimized in that way. I believe that the highest offerer for a farm is generally preferred, as a rule; but I cannot say whether the selection is made irrespective of his skill or capital. The landlord is quite right to take the highest offer, but in many cases he has not inquired as to the tenant's skill or capital. I am a partner of the firm which suffered in the case of *Barns* v. *Allan and Co.* I certainly object very strongly to that part of the law of hypothec which gives the landlord power to follow grain. I think that all sales, wherever they may be carried through, should be protected against the landlord after payment and delivery.

To Mr Hope.—When a tenant does not pay his rent, the landlord should

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have it in his power to put an end to the lease, unless the tenant can give security. I understand that to be the law at present; and I do not advocate any increased power in favour of the landlord.

To the Chairman.—I did not mean that there should be a statutory irritancy. I think it should just be a stipulation in the lease.

To Mr M'Lagan.—It is the leases which were gone into when times were good, which farmers now find themselves unable to go on with. In letting land, proprietors should take into consideration whether the position of the tenant is such that he can stand reverses. I think many men are taken as tenants, who would not be taken but for the law of hypothec.

(43.) Mr HENRY COWAN GRAY.

Henry Cowan Gray.

To the Chairman.—I am agent for the Commercial Bank at Ayr. I was, for twelve years prior to 1857, sheriff-clerk depute of Ayrshire, and since then I have been auditor of the Sheriff Court at Ayr, as well as agent for the Commercial Bank. There is no record of sequestrations for rent kept in the sheriff-clerk's office. I remember that, on several estates, the sequestrations were pretty numerous, while on others I never saw one almost. It is very seldom that a tenant is rouped out without the mercantile community sustaining more or less loss. There have been a good many of these cases in the district of Ayr within the last few years; and in some instances nothing has been received, while in others the dividends have been paltry sums, varying from 2s. to 5s. a pound. So far as I know, the landlords have got their rent. It is very seldom that there is not enough on the land to pay the rent. Sometimes the landlord has got his land back in better condition than it was when he let it, but in many cases I believe he has got it back in worse condition. I attribute the numerous sequestrations to the want of capital on the part of the tenants, and to high rents; and of late, bad seasons have aggravated the matter. The general impression is, that rents are unreasonably high in Ayrshire generally. I believe that, in a great many instances, the landlord takes the highest rent offered, provided there is nothing very objectionable in the party offering, whether he be a good agriculturist or not. I would not like to say that that is the general practice in the county, but it is pretty frequent. I have little doubt that this is done, trusting to the security of the law of hypothec. I know instances in which the landlord has trusted to the stocking of the farm, and nothing else. I have acted as factor on three small estates in the county, the farms upon which vary in rent from £80 to £400 or £500. *Q.* Do you think the tenants of those different classes of farms would be injuriously or beneficially affected by the abolition of the law of hypothec?—*A.* It depends altogether on the aspect in which you look at it. I think tenants are injuriously affected in this way, that the law affects their credit unless they have something beyond what they realize from the farm. It is very difficult for them to get credit, especially from banks, nowadays. There is little doubt that the law of hypothec affects the willingness of bank-agents to give them credit. Very few of them would get credit from us, except those whom we knew to be in good circumstances otherwise. *Q.* If the law of hypothec were abolished, would you make advances to tenants on different terms from what you do now?—*A.* We would judge of the character of the tenant, just as we do of the character of any other party; but I have no doubt that, if there was nothing against his character, he would get accommodation much easier than he does at present. We never advance money to tenants or to any person unless we have two good names to the bill. *Q.* Would you do that if the law of hypothec was abolished?—*A.* We would do it if a tenant had two good names. We don't discount a bill unless we have a drawer and acceptor, and sometimes an endorser. *Q.* And you would do that even if the law of hypothec were abolished?—*A.* Undoubtedly, if I considered that they were trustworthy, and had means to meet their obligations. *Q.* But would you require these additional names even if the law were abolished?—*A.* We would require it in any case, whether the law was abolished or not; but the landlord would no longer have a right to attach everything on the farm for his hypothec, and we would share in the assets as in the case of a mercantile bankruptcy. We would still require two names to a bill as we do now. But bankers in my district have great hesitation in discounting a bill, even with two names of tenants,

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unless we believe they are in good circumstances. *Q.* Would you not discount to them on the same conditions?—*A.* Undoubtedly, to parties whom we consider perfectly good; but I should say we would discount a bill to them much more easily if the law were abolished, than we do at present.

To Mr Hope.—Till the law of hypothec became so oppressive as it is in our district, if two tenants had come to me and asked accommodation, they might have got it much more readily than they would now that the law is being pressed very severely; but seeing that the landlord can attach everything, it is in very few instances that we would give credit to tenants. I believe bankers would be more willing to give accommodation to tenants generally, if the law were abolished, than they are at present.

To Mr Fleming.—I should not like to say that landlords in the county of Ayr prefer the highest offerer without reference to his skill or capital, because I am not cognizant what landlords do, but there is a pretty general impression to that effect. I know instances where it has acted in that way, but I do not say that it is general. I know many tenants whose offers have been accepted without their having any capital beyond the stocking on their farms. That has generally been considered sufficient, and, as the law now stands, I would say it ought to be considered sufficient. I certainly would not say that that is the rule in Ayrshire. I cannot state that I have known any case where a tenant was preferred by a landlord simply because he was the highest offerer, and in the knowledge that he had neither skill nor capital. *Q.* Do you believe that a landlord or his agent would deliberately and knowingly prefer a tenant of that description?—*A.* From what has occurred afterwards, I do believe it. I know a very glaring case which took place in this district. A party who had a small farm applied to me for a cash-credit, which was refused. He was an offerer for a large farm of £600 rent. I knew he was not worth £200 or £300 of capital, and he was accepted for the £600 farm. His circumstances were not generally known. He got his farm well stocked, and in two years he came down, and called a meeting of his creditors. His debts were £1100, and he offered 5s. a pound, but could not pay it. The landlord refused to take a renunciation of the lease; the creditors stepped in; and he has been sequestrated every year since, and he is still in the farm, and the creditors have got nothing. I have no doubt that the landlord might have known that man's circumstances, though I cannot say that he did know them, but they were pretty well known. The landlord acts through a factor there. I think a tenant ought to have sufficient capital to carry on his farming operations without looking to extraneous sources for assistance. At present we would not discount a tenant's bill, except with two names of parties whom we believed to be able to meet their engagements. *Q.* Would you alter that salutary rule if the law of hypothec were abolished?—*A.* I don't know what we would do, until we were put in the altered circumstances; but if a tenant stocked a farm himself, and was known to stand well with his landlord, he would even get credit at the present moment, so that the abolition of the law would not affect him. If a tenant in doubtful circumstances came to discount a bill with a good name on it, we might deal with him if we believed the name to be sufficient. *Q.* Would you not continue that system under any state of the law?—*A.* Certainly. *Q.* Then, if the law were abolished, would you give a man whose credit was not good, any greater facilities than he gets at present?—*A.* In no case would a man whose credit is not good obtain facility without security. But where parties knew that, if a bankruptcy occurred, they would share in the dividend, they would be more inclined to deal with the tenant than they are at present. A change in the law would not affect our practice as bankers, but tenants, under the abolition of the law, would be in a better position to obtain credit, as the risk would then be less than at present. *Q.* Then as a banker you don't think that a tenant would receive greater facilities if the law were abolished?—*A.* As a banker I could not say that he would, under the explanation already given; but as regards the question of credit generally, I think he would have more facilities. We only discount bills to parties whom we believe to be able to meet them, and we would continue to act on that principle even if the law were abolished. That would make no change so far as discounting is concerned, because in no case would credit be given except we believed the parties applying for it were perfectly able to meet their obligations. I suspect manure merchants find some difficulty in getting their bills discounted, when they are drawn on tenants, in present circumstances; and I

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know that there are some farmers, to whom manure dealers will not give credit, on account of the law of hypothec. There is great competition among manure dealers, and perhaps that leads to their running certain risks, but there are parties who are now denied credit, who would get it but for the law of hypothec.

To Mr Curror.—I have little doubt that the law of hypothec has raised land beyond its actual value in Ayrshire. I know one farm in which, within twenty years, there have been five changes of tenants, from their not having sufficient capital, or from their giving more rent than the farm was worth. I don't say, that if the law had not existed these parties would not have got the land, because there are parties who will act foolishly under any law; but at present, if the landlord gets his farm well stocked, he looks on that as sufficient security, no matter how the money has been obtained for that purpose. If the law were repealed, landlords would have to look for security, just as in any other commercial transaction. I believe the abolition of the law might lower rents for a time, those rents especially which are too high; but ultimately perhaps things would come back to their present state. I believe there is plenty of capital in the country to stock all the farms.

To Mr Carnegie.—Our general rule is not to discount a bill without two good names on it. I should say that, if the law were abolished, we would consider farmers' names as a rule better names than we now consider them, and that we would be willing to take a man's name to a bill, whose name we would not take at present.

To the Chairman.—Some time ago my opinion was only in favour of a modification of the law, but on further consideration I approve of a total repeal. I don't see why the abolition of the law should not apply to existing leases. There may be special pactions which should not be interfered with; but, if a lease is in the usual terms, I don't see why it should be excepted. I think sequestrations should be made public. Where sequestration is once put on, however secretly, the party very seldom does any good. I know of parties sequestrated ten years ago, who have been kept up by means of sequestration, and latterly they have been rouped off and a dividend paid to their creditors. I believe it would be an advantage to tenants themselves in many cases, that that should be done sooner.

(44.) Mr JAMES P. WILLISON.

James P. Willison.

To the Chairman.—I am a farmer at Maxwelton, in the parish of Dailly, Maybole. I have five farms, and I pay £2450 of rent. All my farms are pastoral, except about 400 acres arable. My period of entry, except to one farm, is Whitsunday, and the first rent is payable at the first Martinmas. By that time I have reaped nearly the whole benefit from my pastoral farms. I think that is a fair term of entry, and a fair period of payment for pastoral farms. I cannot say that I have personally met with any losses from the law of hypothec, though I have had many difficulties to encounter, and have run narrow risks. I think it is a bad law. A man with plenty of capital offering for a farm is often obliged to give a little beyond what might be its value, from the great number of offerers who have no capital. Of course, it is one's own fault to offer more than the value, and I don't say that is a very pressing hardship. I think the cases are very numerous, in which rents have been unduly raised by competition, and the persons preferred have been deficient both in skill and capital. I would not call that the general system in Ayrshire. It is more common on the smaller estates than on the larger ones. I hold my farms from four different landlords. My entry to my arable farm is at Martinmas, and I pay my rent at the following Martinmas. The farm is partly arable and partly grazing. I think that is the proper term of entry for arable farms. I think it is fair that no rent should be paid till some profit has been derived from the land. In addition to my rent, which I have stated, I pay £300 or £400 for the winter keep of stock sheep, and I find it very difficult to know whom to trust my sheep with, not being aware of the circumstances of the tenants. They very often ask payment before the money is due, and I must refuse, or go to the landlord. I think it a bad law for the tenants themselves, because they do not get the fair market value of their turnips from graziers, on account of the risk which the graziers run. I have known cases where graziers paid only half the value, and ran the risk. I

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don't think that the accommodation which the tenants get from landlords by the law of hypothec is of the slightest advantage to them. If the result of the abolition of the law of hypothec was to make farms fore-rented, I am afraid many of the small tenants would go to the wall altogether, but at present they are certainly not in a flourishing condition. I think they have taken their farms without sufficient capital to begin with, and it is only the credit which they get from the landlord which has enabled them to hold on so long. I think a better class of tenants would take these farms. There are some persons who hold farms of £300 to £400 a year, who have not enough of capital, and I think they would take smaller farms, and they would be a great deal more comfortable. The smaller farmers must either become ploughmen, or go to the colonies. But ploughmen are in quite as good a condition as these small tenants, and bring up their families quite as respectably. A modification of the law would do good, but its abolition would be much better. I would reserve the rights of parties under existing leases.

To Mr Fleming.—On badly managed properties, where the rents have been raised far beyond the true value, I believe there would be a reduction; but on well-managed estates I do not believe they would fall a penny. The bad management which I speak of is the preferring of the highest offers for farms, irrespective of the capital or skill of the offerers. I am afraid that is too general in Ayrshire. In the majority of cases I think it is so. Though I farm in Ayrshire, I reside mostly on the Duke of Buccleuch's estate in Dumfriesshire, in the parish of Sanquhar. I have resided there for twenty years. On that estate the abolition of the law would not reduce the rents one iota. Owners of estates like that have nothing to fear, but they don't take the highest offer. If they think too much is offered, they will not take it. If the law were abolished, I think fore-renting would be the rule to a much larger extent. There is plenty of capital in Scotland that could be devoted to agriculture, but I fear it is not in the hands of the farmers. But there is a stream flowing every day from the mercantile classes, and, but for the mercantile capital, I believe the farming capital would have been exhausted long ago. I would have no objections to capital without skill being introduced into land. I believe, if the law were abolished, bankers would lend much more readily to farmers than they do at present. I think the repeal of the law would have no effect on estates which are managed as they ought to be.

To Mr Carnegie.—I would approve of the publication of sequestrations.

Tuesday, January 17, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.	MR HOPE.
MR MURRAY.	MR M'LAGAN.
MR FLEMING.	MR CURROR.

(45.) MR HUGH BAIRD.

Hugh Baird.

To the Chairman.—I am a maltster in Glasgow. I was for about thirty years a brewer. I have had extensive dealings with farmers throughout Scotland, as a purchaser of grain for the purposes of my trade. I have experienced disadvantage from the law of hypothec. I might have bought from a farmer on advantageous terms both for him and me, but for his being under that law. Lately a farmer sold me a parcel of barley in Edinburgh market. The price was a good one for him at the time, and yet it was a good purchase for me. The same day he offered me 100 quarters which he was then threshing out, and he said he would send it by railway to me if I would advance £100 on it. I would have done so in the case of many of the farmers about Edinburgh whose circumstances I know, but, not knowing his circumstances, I declined the transaction, and both he and I were losers. An application to the factor in such cases would be attended with considerable trouble and difficulty. I pur-

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chase from several farmers along the railway, both in the east and south of Scotland, they putting the grain on at their station; and I would do so more largely, but I only buy from farmers whose circumstances I consider to be good. I think sample markets should be put on the same footing as bulk markets, in regard to sales made in them being protected. I don't think it would be right to allow a sale in a farmer's own stackyard to have the same privilege, without giving the landlord some security, and I would suggest that the landlord should have his privilege for a week after the grain was in the purchaser's possession, the purchaser having the right to withhold payment till after the lapse of that week; or, if the farmer got a letter from his landlord or factor, giving him liberty to dispose of his stock, I think that would be quite sufficient. I am not prepared to say whether there should be a total repeal of the law of hypothec, or only a modification. I do not know sufficiently how the matter stands with the landlords. The average extent of my annual purchases from farmers is from 15,000 to 20,000 quarters a year, or from £25,000 to £30,000 a year. I purchase barley only. I have sustained no loss from grain having been followed; but I cannot estimate what I might have gained, if I had not feared that it might be followed. I have never had to repeat the price of grain which I purchased, nor have I ever had any threat of proceedings with reference to any such claim. I have avoided purchasing wherever I thought there was any fear of grain being followed, and in that way I have sometimes lost what would have been an advantageous purchase. That has not occurred very frequently, but it has occurred. I have had no difficulty in getting sufficient grain to carry on my business.

To Mr Fleming.—I purchase from grain merchants as well as from farmers. I labour under no similar disadvantage in my dealings with them. I see no reason why the one class of transactions should be free, and not the other. The landlord has a security over the working stock on the farm, and I think that is sufficient. At present we labour under difficulty, because we don't know, in the west country particularly, when a farmer is sequestrated. I think sequestrations should be published. It would be an equitable arrangement, that a purchaser who buys and gets delivery, and pays the price, should be protected, unless the sequestration of the farmer from whom he has bought has been published previously. I think it is degrading to a farmer to have to get a letter from his landlord allowing him to sell. I am inclined to give the landlord the week which I have suggested, because I think he should have some protection against a tenant who would dispose of the whole of his grain. I am clearly in favour of the publication of sequestrations. I have not directed my attention to the other parts of the law of hypothec. I sell no grain except barley. No landlord ever followed grain in my hands.

To the Chairman.—I prefer purchasing at first hand from farmers who bring large quantities of grain to market.

To Mr Fleming.—I have come a good deal into contact with farmers for many years. I think the class of farmers is improving. In my opinion, the profession of agriculture is as high at present as ever it was.

To the Chairman.—It is chiefly from large farmers that I buy.

To Mr Fleming.—I have never been deterred from purchasing grain from a corn agent from fear of its being followed; because, if it had, I would have looked to him for repayment of the price.

To Mr Hope.—I think farmers are as respectable as ever they were, and they are improving in regard to raising grain. *Q.* Why should not farmers be allowed to sell their corn like other producers?—*A.* I think the landlord should have a week. Very little grain is sold, except in public market, on less than a week's credit.

To Mr Fleming.—I think the landlord should have protection for a week, whether the sale be a private one, or a sale in a sample market; although, as a merchant, I think protection to that extent is not desirable.

To Mr Hope.—When a tenant sells on even a week's credit, he must know something of the merchant who is buying from him; and no doubt the protection which I have suggested for the landlord would prevent a farmer from selling to a number of merchants whom he did not know, and who might be disposed to give him a better price than he could get otherwise. It would be an advantage to the farmer and also to the purchaser, if there was no such protection.

(46.) ALEXANDER BETHUNE, Esq. of Blebo.

Alexander Bethune

To Mr Carnegie.—I am a landed proprietor in the county of Fife. I have several small tenants, and half a dozen decent-sized farms. My gross rental is about £2500 a year. I have farmed for sixteen years, and have paid attention to farming since 1850. I have generally farmed about 200 acres of my own land—sometimes one farm and sometimes another. I have directed my attention to the working of the law of hypothec. I think that, looking back to the state of Scotland, when tenants had little or no capital, the effect of the law, together with leases, upon landlords, tenants, and the whole community, was remarkably good when it came into force; but now, I think it is just as bad in its effect on all these interests. I consider it injurious to the landlord, because it has a tendency to give him an inferior class of tenantry. It induces tenants to become occupiers of land, when it is not for their advantage, or the advantage of anybody else, that they should have it. It brings a great deal of odium upon the landowners, without giving them any real benefit — its apparent advantages being quite illusory. On well-managed estates, where only the real value of farms is taken from the tenants, I don't believe that the law is of importance; but I am sorry to say, from my observation of parts of Scotland, that I think there is a number of estates on which a weak class of tenantry have been admitted, and that, under the peculiar circumstances of agriculture at present, rents are promised which are not paid, the land is under-farmed, and it is affecting landlords in that way. So much does it affect them, that, if some alteration in the law is not made, I think the tendency will be to bring about a further change in the proprietary of Scotland, and to throw a large amount of the land into the hands of the monied and mercantile interests. As to the tenants, I think they are tempted, by the credit which is given them by the landlord, to take farms which they are not competent for. These tenants start in difficulties, and remain in difficulties during their whole lease. The law also affects tenants in the way of damaging their credit, and it prevents them from obtaining money to carry on their trade. A number of tenants at present under-farm their land, and I think the want of capital on the part of tenants is very important in considering this question. I think the first person we have to look to is the proprietor, next the tenant, and lastly the public; for it is impossible to exaggerate the importance of agriculture to a country. With reference to merchants and others connected with supplying the land, I have no great sympathy with them. I think that they and our agriculturists have the remedy in their own hands; but I think it is a grievous hardship for smiths, wrights, and other small tradesmen, when the law is put in force. Rents used to be paid chiefly in kind, and then the landlord was expected to see that his share was not carried off. I think that part of the law which allows the landlord to follow a crop ought to be at once abolished in the case of all *bonâ fide* sales, and I would not insist on delivery as being necessary to make a *bonâ fide* sale. I think the system of private sequestration is as bad as bad can be. In abolishing the law, I would reserve the rights of parties under existing leases; but, in consideration of the landlord letting his land for nineteen years, I would allow him a preferential right for the two first payments of rent. Taking an arable farm, a tenant entering at Martinmas should pay his first half-year's rent at Whitsunday, and his second at Martinmas. You may fail to find out what a man's actual means and character are when he takes a farm; and, in case of his breaking down before showing a *bonâ fide* desire and ability to cultivate the land, I would allow the proprietor a preferential claim for these two first payments. For the third and following payments under the lease, he should rank with other creditors; but, in the event of the tenant failing to pay his rent, instead of going through the present cumbrous process of irritating the lease, and bringing endless trouble and vexation on the proprietor, I would suggest an Act of Parliament to the effect, that, if the rent is not paid within a certain time, the proprietor should apply to the sheriff, and on his ascertaining that it is not paid, the lease should fall there and then. I can imagine foolish men insisting on prepayment of rents, if the law were abolished; but I think the vast majority of proprietors would see that it was for their own interest, and for the benefit of the country, to make the payments as I have stated. *Q.* Do you think that in new leases there would be any difficulty in letting land at a fair

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rent with these terms of payment?—*A.* I think it would take a time. There are certain properties which could not fail to be temporarily affected by that change in the law; but I have no fear but that every inch of land in Scotland would be let at a fair value. I have no apprehension that there would be much change in the present tenantry, where land is let at a fair value; but as to the tenants who have taken farms with insufficient capital, and who can be proved by their management to demonstration unable to pay their rents, the sooner they are out of the land the better. I have small tenants with from one to three pairs of horses. I have collected my own rents for seventeen years, and I never had a shilling of arrears. I disapprove of the system of yearly tenancies, and I think no land should be let without a lease, except under peculiar circumstances.

To Mr Fleming.—I have a great feeling in favour of the old proprietary of Scotland; but if they are not in a flourishing condition, and managing their land properly, let them be as old as Methuselah, they ought to be out of it. I should be sorry to see mere money power in this country getting land without paying smartly for it. With reference to my opinion that the present law damages the credit of tenant-farmers, I think it is apparent, that the risk under the law of hypothec is so great that capital is very shy of confiding itself to that class. I entirely disapprove of a tenant entering on a farm with insufficient capital to stock and work it. I don't think any man should go into a farm which requires £1000 to stock it, if he has less than that sum. He should not commence farming operations on credit; but I consider that he would be benefited by the abolition of the law, in respect that, if an unforeseen emergency should arise, he would be able to turn his credit to better account. As a rule, farmers are not speculative beyond their business; and I think if the law were abolished they would be able, when they required it, to get a little credit, according to the extent of their holding. While I think there is a number of men in the country who do farm up to the point of profit, there is a number all over Scotland, more especially in the arable districts, who, from one cause or another, don't farm up to the paying point, and that is not so much from want of intelligence or energy, as from want of capital. If the law of hypothec were abolished, I have no doubt that capital would be supplied to a much larger extent. It would come from the monetary power of the country. I have no doubt the abolition of the law would effect considerable change of the tenantry, but there will always be men ready and willing to fill up the gap. There are numbers of men waiting just now to take land. I don't think the present tenantry could pay fore-rents; but that would not dispossess them of their farms, because the abolition of the law would not affect existing bargains; and when a new lease was made, it would be a matter of bargain between the landlord and the tenant. The present tenantry could not pay fore-rents, but that is very much owing to bad seasons, and to the increased quantity of stock required on their farms; but I have not the least fear but that, with a few good years, and if they got the land at a fair valuation, they would, generally speaking, be able to pay fore-rents, such as I desire, when their leases are out. I think the cry about the poverty of the tenants is exaggerated, but I know that it applies to certain classes of soil in certain parts of Scotland. In Fifeshire generally my impression is that tenant-farmers are in a good position. There are a great many properties in Fife, and, generally speaking, the tenants there have not suffered so much in the last few years as tenants in some other parts of the country. There are a great number of tenants in a struggling position just now, but they are generally a solvent, excellent class. A great many are holding on in hope to see a turn in affairs. I don't think that the class of intelligent agriculturists have declined in the country, though a great many of them have lost money within the last year or two from unavoidable circumstances. One of the evils of the existing law is, that many proprietors do not know much about their property, and leave the management of it too much to middle-men and to writers, who let farms often without knowing anything practically about the business. I have great fears of agriculture going down if that system is continued. Landlord and tenant are not brought sufficiently into contact. I believe no men are more lenient, or inclined to deal more fairly, than the proprietors in Scotland; but I would recommend them to do a great deal more of their own business, and to come more in contact with their tenants. The change which

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I advocate in the terms of paying rents would expedite the payment of them nine to twelve months. I should suppose that the amount of back-rents in Scotland would be about five millions. A change to fore-rents would of course deprive tenants of the use of that amount of capital; but I hold it is a very bad thing for a farmer to have that credit. I do not remember any case, in which a tenant taking possession of a farm broke down before he reaped the first crop, and paid the rent of it. But I don't see how the security which I propose to give the landlord would be worth nothing. Even with the greatest prudence, it is impossible to ascertain a man's character and means precisely; but I am not strongly in favour of the proposal I have made—I only suggested it as a compromise. I think the real security is in having a good tenant, short payments, and getting the lease put an end to, in the event of failure to pay the rent. I am quite prepared to see the law abolished *in toto*, because I think it does harm to all parties.

To Mr M'Lagan.—When the law of hypothec was established, I believe that in most cases the landlord received his rent, or his share of the produce of the farm, in kind. I think he was certainly entitled to that. *Q.* Now, when the rent or landlord's share of the produce is paid in money, do you think that the landlord should not be made as secure of his rent as when he received it in kind?—*A.* I think most decidedly; but the proprietor, dealing in land, should take care to make his bargain, so that he will receive his rent for it. He should have not only an equal, but a superior claim, if that can be given without injustice to the public. *Q.* Carrying out your plan, suppose a tenant enters at Martinmas, and pays his first half-year's rent at Whitsunday following, he must get a large quantity of manure for which he pays the merchant, but the second half-year's rent becomes due, and the tenant is unable to pay—do you not put the landlord in a worse position than the manure merchant, inasmuch as the manure merchant has been paid for his manure, while the landlord has not been paid his rent?—*A.* Yes, in that way; but I would not be at all afraid of the landlord running the risk for half a year, with a good tenant. *Q.* Then you are prepared to do away with the law of hypothec, and to give the manure merchant a preferable claim to the landlord?—*A.* No, I could not put it in that way; but in any view the landlord only runs the risk for six months. I would propose my plan as a compromise, but I am willing to do away with the law altogether. The putting an end to the lease should be at the option of the landlord. Where a landlord has a good tenant, I think the farm should be valued towards the end of the lease, and the tenant should have the offer of it. That would do a great deal of good, because tenants often run out their land, or don't keep it up to the mark, towards the end of a lease, not being sure that they will get it again.

To Mr Curror.—Taking the land in Fife overhead, I don't think it is overrented. There are not many new tenants in Fife. The farms are mostly tenanted by Fife men or their sons. I have known cases in which men who came from other professions have done no good as farmers; also the reverse. In many cases these men would not have got farms but for the law of hypothec.

(47.) Mr WILLIAM GOODLET.

William Goodlet.

To the Chairman.—I have occupied the farm of Bolshan, Forfarshire, about seventeen years. I was factor for Lord Blantyre in East Lothian before that, and subsequently for a few years in Renfrewshire also. My present farm extends to about 650 imperial acres, and the rent, with interest, is £1050. My entry was at Martinmas, and the rent is payable at Candlemas and Whitsunday after reaping. At the expiry of twelve months after entry, I had laid out, on valuations at entry, labour, and stocking, after deducting returns from sales of grain and live stock prior to that term, close upon £5000. By the time my stocking was completed, another £1000 had been laid out. This was in addition to a large expenditure on draining, and other permanent improvements, then commencing to be made by me. I considered that all that outlay was absolutely necessary, fairly to work and stock the farm. My annual average outlay during the last seventeen years, for manure and feeding-stuffs, beyond what was grown on the farm, exceeds £600—latterly these were increased. In 1860 and 1861 they amounted on an average to upwards of £1000 each year. I believe

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the law of hypothec has a tendency unduly to raise rent, and in that way I have experienced disadvantage from that law, from being exposed to competition in taking my present farm. It was advertised, and other parties offered. I do not know if these were all practical farmers with capital or not, as I lived at a distance at the time, and did not learn the names of the other offerers. I was accepted, I suppose, because I made the highest offer. I mean that I would suffer in this way, that, if land in general was got up by competition, the rent of my farm would naturally be raised in the same way. On many estates land has attained a fictitious value; but farms on estates, which are judiciously and properly managed, are generally more fairly rented. I offered for my farm what I considered a fair rent. I cannot say that I suffered from any undue competition in taking it. I sustain indirect disadvantage from the law in this way, that I have to go into the cattle market for instance, with speculators who are not able to pay for their purchases at the time, and who grant bills to the dealers, while I have to pay higher than I would have to do, if none but men with money to pay for the cattle were there to compete. The law of hypothec allows landlords to give these men farms, with inadequate capital. When they go to market, they are not able to pay for the cattle they buy; but dealers sell them cattle on bill, and it is generally arranged that the bill shall be payable about the time when the cattle are sold again; and in that way, I am put to a disadvantage in competing with these men. The dealers are probably as much to blame for that as the landlords; but the dealers know very well what sort of men they deal with, and they run their risk, and I think the law of hypothec encourages the thing. The dealers know that, in dealing with farmers, they deal with persons who don't pay their rents till after their crop is reaped, that the landlord can secure himself, and that other creditors often come off very poorly. I should like to see that class of tenants put into farms suited to the capital they have for managing them. I think it is the law of hypothec which induces landlords to take such men. Some landlords, however, do not take these tenants. I know estates in Forfarshire, where sequestrations are seldom heard of. The estate on which I farm is one of that description; and on Lord Blantyre's estates I don't recollect of having had more than one or two sequestrations. But I know estates in Forfarshire where there are at present not less than four or five sequestrations going on, and sometimes more. There are quite as many industrious tenants among the smaller tenantry as among the larger class. I don't think the smaller tenants derive any advantage from the law of hypothec. Generally I think they pay greater rents per acre than the larger tenants—at least I know cases where they do so. These men are often induced to take land at high rates in good times. They are industrious and respectable, and they go on pretty well till bad times come, when they are very apt to fall into arrear. I don't think the system of postponed rents is of any advantage to them. It leads them into a transaction which, if they knew they had to pay rent earlier, they never would enter into. They go on at first, and lay out the little capital that they have in improving their land, never thinking about their rent, and, when the term of payment comes, they get into trouble. I dare say the bulk of the good tenantry in Scotland have raised themselves from small beginnings, though not within the last generation. I don't know that the smaller tenants who have raised themselves would have been able to pay fore-rents at the time they began. In Forfarshire the industrious small tenants are as able to pay forehand rents as the industrious large tenants are. I call a small tenant a man paying £50 to £100 a year, and with one or two pair of horses. I think it is not improbable, that the abolition of the law of hypothec would make forehand renting more common. If I were a factor, and the law were abolished, I would recommend that the rents should be closer to forehand rents. I don't say that in all cases it should be forehand rent, but I would keep as close as possible to it. I consider the stocking on my farm ample security for my rent; but, as changes may occur in the course of a nineteen years' lease to lower the credit of the tenant, I do not think the landlord's hypothec should be done away with altogether. I would limit the hypothec to three months after the last legal term of payment—allowing the landlord a preference over creditors doing diligence during the currency of the year, and to make his hypothec effectual by sequestration and sale, at any time within the three months after the last term of payment. All sales made in *bonâ fide* by the tenant, and paid and delivered prior to sequestration, should be good against the

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hypothec, and, when sequestration is taken out, notice should be given in the local papers. Take my own case:—mine is a Martinmas entry, and the legal terms are Whitsunday and Martinmas. When my rent at Whitsunday becomes due, I would not allow the landlord to sequestrate, even though I did not pay, but I would give him a power to prevent any poinding creditor from carrying off the goods on the farm, unless he paid the rent. At the last term of payment, I would give the landlord power to sequestrate if the rent was not paid, and I would continue that power for three months, till Candlemas, during which time he could make his hypothec effectual. I would do away with all distinction between crop and stocking. Everything should be available for the landlord's claim; nay, if turnips were let by a tenant to another person, to be eaten by his cattle in the byres of the tenant, I think these cattle should be liable to the landlord's hypothec, if necessary, because the landlord binds the tenant to have the farm properly stocked, and the stocking should be the tenant's, and if a third party comes in and diminishes that security, it should be at his own risk.

To Mr Fleming.—*Q.* Supposing the landlord has a right to sequestrate for the past crop, and that the tenant has entered on possession of the farm for another crop, would you also give the landlord a right to secure the current crop against the diligence of creditors?—*A.* You are speaking of crops; I would put aside crops altogether. Take the year from Martinmas 1865 to Martinmas 1866, it does not matter what is on the farm, crop or stock, the landlord makes his sequestration available, and gets payment of the rent due at Martinmas 1865; then, if a poinding creditor comes in between Martinmas 1865 and Martinmas 1866, to make the tenant a bankrupt, the landlord says the current year's rent is not paid, and that the creditor poinding must secure him that rent before he touches the property. *Q.* But suppose that is done on 30th November?—*A.* Then all he has to do is to secure himself for the rent of 1865. I would allow the landlord to sequestrate for three months after Martinmas 1865 for the rent of 1865. *Q.* If, during the currency of these three months, a creditor comes in and poinds, what right would you give the landlord with reference to the rent to Martinmas 1866?—*A.* He could tell the poinding creditor, that if he makes the man bankrupt, he can only do so by payment of the rent or by giving security for it. *Q.* What is the difference between that and the present practice?—*A.* By making it necessary for the landlord to make his hypothec available by sequestration within three months of the last legal term of payment, you make it impossible for him to allow arrears for two or more years to accumulate, and at the same time to retain his hypothec, which could be done under the present practice.

To the Chairman.—My view is, to make rents more nearly fore-rented than they are now; to continue the law of hypothec so far, making it applicable to the rent of the year, irrespective of the crop; and, when sequestration takes place, the hypothec should be made available, instead of letting new sequestrations be put on in a quiet way, without letting the public know anything about it. The hypothec, limited as I propose, would allow of the landlord extending the last term of payment to the Candlemas after reaping, without forfeiting his hypothec, and the rent might either be made payable at the legal terms, or extended to Candlemas, or further than that—but then it would be at the landlord's risk, the hypothec being no longer effectual than up to the 11th February, or three months after Martinmas. I would exempt all existing leases, and only let the law apply to those entered into after its enactment.

To Mr M'Lagan.—If the tenant did not pay at Whitsunday his rent due then, I would not allow the landlord to sequestrate for that half-year's rent at that time. If the Whitsunday rent is in arrear, the landlord can prosecute the tenant for that, and enforce payment at common law. When Martinmas comes, but not till then, he should be allowed to sequestrate for the whole year's rent, or what of it may be due. The stocking on the farm should be ample security to the landlord for the rent, and, if poinding creditors come in during the currency of the year, he would have the power to make them pay the rent due for that year.

To the Chairman.—The lease would contain a condition, that the tenant must have his farm properly stocked; and, if the landlord found him displenishing the farm by selling the stock dishonestly, he would have a remedy at common law.

To Mr Curror.—If the rent was not paid at Martinmas, and the landlord sequestrated, and other creditors came in, the landlord would get his rent, and

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the rest would go to the poinding creditors. *Q.* What becomes of the next rent?—*A.* It should come from the next crop, or, if the tenant is bankrupt, you can turn the man out, and the landlord can look for another tenant.

To Mr Fleming.—I would not approve of a statutory irritancy of the lease in the event of bankruptcy. I think the irritancy should be by agreement under the lease, if at all. I do not think it would be fair to make it statutory. Suppose a tenant to have laid out largely at the beginning of a lease, in order to improve and bring up the condition of the farm, and after a while to find himself so hampered as to be unable to go on, and that bankruptcy ensues, were the irritancy to be statutory in such a case, it would be very hard on the tenant and his creditors to have to give up to the landlord all the money expended on these improvements. The trustees should have power either to relinquish the lease or carry it on, as they saw fit; but, if they resolve to carry on, they should be bound to give satisfactory security to the landlord for the rent, and for the cultivation and cropping of the land, and fulfilment of the conditions of the lease during their management.

To the Chairman.—The tenant would be bound to have the farm properly stocked; and, if that condition was not fulfilled, the landlord has power to enforce it or get quit of his tenant. When a tenant becomes bankrupt, he must necessarily get into the landlord's hands, unless the trustees carry on the farm, in order to take out what the tenant has put in; and, if they give security for fulfilling the obligations under the lease, I don't see why trustees should not carry on the farm. *Q.* In what respect do you think the modification which you have proposed preferable to the present law?—*A.* It would prevent sequestrations for two years' rent at a time, and it would put a stop to the system of private sequestrations; it would make *bonâ fide* sales effectual; it would have a tendency to make rents forehanded, or close upon forehanded; and it would make landlords more careful as to the tenants whom they selected, and bring in a class of tenantry better able to perform the obligations which they have undertaken. My objection to a total abolition of the law is the long period for which a landlord lets his farm. Changes may occur to affect the tenant's credit, and I think the limit I propose would be quite sufficient for the landlord's hypothec. I approve of the principle of the law, but I object to the extent to which it is carried, and to the separation of the stocking from the crop. I don't think it should be in the power of the landlord to sequestrate a crop a year or two after it is grown, or it may be sold, for the rent of that year. I object to its being applicable to crops, rather than to the rent of particular years. I have no doubt that the modification of the law which I suggest would bring more capital to bear on agriculture, and that is exactly what farming wants. There is far too little capital in general employed in the cultivation of the soil; a great many farms are in a state of starvation for want of it. Rents would be payable earlier, and farmers would have to calculate on paying before they reaped the crop. The consequence would be, that men without adequate capital to pay forehand rents and to stock a farm, would not so readily get farms, because, if the landlord did not make his hypothec available sharply, he would lose it, even with the limit I give him. I think servants' wages ought to continue a preferable claim, because they are alimentary, and cannot be dispensed with.

To Mr Murray.—I think the modification I propose would benefit persons dealing with farmers in this way, that the landlord would not have so large a preferable claim for rent in the event of a bankruptcy. At present, the landlord has frequently a preferable claim for two years' rent, and it takes almost all the assets to pay that claim. I do not see that, under the modification I propose, he would still be in the same position.

To Mr Hope.—The sequestration would be for the crop to come, and not for the crop reaped and disposed of.

To Mr Murray.—*Q.* Would there not still be two years' rent to take off the whole available means of the farmer?—*A.* But there would be a crop to come for it, whereas the crop is gone in the other case. Under the present law the whole crops are realized, and the two years' rents come against what remains of the last crop undisposed of on the farm; but, under the plan I propose, there is another crop to be grown for the second rent. *Q.* Would not the result be the same under the present law, if the farm was fore-rented?—*A.* No. For the present law allows the crop to be followed, so long as it exists, and even after it is

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sold, unless in the market by bulk. *Q.* Is not the practical result of your plan merely to make farms fore-rented?—*A.* No doubt in the main it might be so, but not necessarily. I don't think that would be a loss to the smaller tenants.

To Mr Hope.—*Q.* Suppose a poinding creditor to do diligence on 30th November, would he not have to pay two years' rent in virtue of the landlord's hypothec, according to the plan you suggested, in the same way as he would by the law as it at present stands?—*A.* In one sense he would. He would have to pay the rent of 1865, and guarantee or give security for the rent of 1866; but there is this very important difference between the two cases—in the limited plan I propose, he would have ultimately to pay two rents, but then he would have two crops to meet these rents. As the law now stands, he might, and in practice usually he has to pay two rents, but then he has only one crop to meet them. Such being the case, it is easy to see he would be much safer the one way than the other. Besides, sequestration laid on privately as it is enables the landlord to let the tenant go on selling the sequestrated crop to carry on the farm, so long as enough is left for rent; and the manure merchant and others, trusting the tenant with manures to grow the following crop, are all involved in the impending ruin likely to ensue when another sequestration falls to be imposed.

To Mr M'Lagan.—*Q.* Would the same not occur if the farms were fore-rented?—*A.* Of course, if the sequestration were altered so as to make it immediately carried out as I would propose; but if it remained as it is now, it would not, because the landlord might still continue to go on with his conventional terms. It could be accomplished by limiting the hypothec to the legal terms, and bringing the present rents forward, if the sequestration was public, and done in the way I propose. In that case, if the landlord extends his conventional terms, he can only do it at his own risk. I believe the consequence might be to bring about forehand rents, and I believe it would be an advantage that it should.

To Mr Hope.—I think the tenant-farmers in Forfarshire are in rather a bad state at present, generally speaking. There are some estates I know, where there are few sequestrations, and where the land is pretty fairly managed, and the rents not severely high; but on some other estates they are in a very bad state indeed. There have been a good many changes of tenantry on some of these estates lately. I have here a letter from a tenant, which shows the frequency of the changes. He says:—'My lease of nineteen years, at the yearly rent of £124, expired at Whitsunday 1855. Being willing to have a renewal, I then offered £230; but my offer was declined in favour of another, who promised £100 more rent, and so had a better right to the farm. He has this year given up his bargain, and it is again let at about the same rent, but with the addition of a cot-house, and about twenty acres of arable land, and thirty or forty acres of pasture. My neighbour was a year longer in leaving his farm, viz. 1856. His rent was about £300, but at the end of his lease he did not try to renew it. It was let first at £550, but the tenant only kept it one year; and then a second time at £450. The second tenant left at Martinmas last, and a third has succeeded at, I believe, about the same rent as his predecessor, this making the third tenant on that farm within nine years.' On some estates, I think the factors have acted with great recklessness in this matter. I know one farm, the old rent of which was about £180, but which was let at £500, besides £100 of interest on new buildings and improvements, to the land-steward of a proprietor. He knew farming, or at any rate had had some practice as a grieve, but he became bankrupt, with debts to the amount of £10,999,—his assets being £2259, a good deal of which was secured to the landlord. It was a farm of 460 acres, and the tenant had only £100 of capital when he entered. He borrowed £700 on a policy of insurance; and, in his examination before the Bankruptcy Court, he swore that to stock the farm properly would have taken £6000 or £7000.

To Mr Carnegie.—One of the cases referred to in the letter which I have read was that of a flesher, who took a farm at £330, the old rent having been £124. The capital which he had was £150, with £250 of book debts, one half of which he declared in his examination to be bad, so that his capital was about £200 on entering. He failed in a few years for £4500; his assets were £800, a good deal of which went to the landlord, and there would be very little left for the general creditors. In another case a farm, the rent of which had been £260, was let for

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£425 to a tenant, who stated that when he took the farm he was worth about £650, part of which was borrowed. He failed for £2676, his assets being £1141, of which £900 was preferable.

To Mr Curror.—I believe, though I cannot say positively, that in all these cases the landlord was paid in full. But my object in mentioning them is to show how reckless the management must be, which takes tenants with such small capital.

To the Chairman.—I think the law of hypothec has a great tendency to bring about this state of matters, because it renders agents and landlords less careful in selecting men with sufficient capital. There is another case, which occurred under the management of a factor who has four or five estates under his charge. A farm, which appears in the valuation roll at £640, was let at £875 to a tenant whose capital was given in at £2600, but it consisted of £1700 of book debts described by himself as bad, and £1200 promised by the same factor for renouncing leases on another estate under his management; but of this £1200 he only received £700, leaving of free capital not more than £400 or £500 for a large farm in the centre of Strathmore. The next case I have to mention is a farm on another estate under the same management. The rent was £250 for 200 acres, and the capital about £420. The tenant took over the crop on entry at valuation from the factor at £650, but was never able to pay this, and got into arrears. In 1854 he entered into a new arrangement, by which the valuations and arrears were cancelled, and £90 in lieu of them added to the rent for the remainder of the lease. When this arrangement was made, his funds were reduced to nothing, and yet the factor apparently had such high ideas of the capabilities of the farm, that he entered into this absurd bargain. The tenant failed.

To Mr Hope.—That arrangement, if the tenant had not failed, would have enabled the factor to secure all the back-rents which had been unpaid, because £90 for twelve or fourteen years would have amply covered the debt. I believe that ultimately he lost money by the man.

To Mr M'Lagan.—I am not aware whether the factor knew that the tenant had no funds when he entered into that arrangement, but he ought to have known.

To the Chairman.—I wish to mention another case, which occurred on another estate managed by the same factor. The old rent of the farm was £105; it was let to a wood merchant at £281. He estimated his capital at £2000 when he entered to the farm; but he could not have had anything of the sort, for he failed in three years, with debts amounting to £3445, and assets amounting to only £573. He attributed this result, excepting a cautionary obligation, to losses and outlay on the farm. I have memoranda of various other farms let to men of a similar stamp.

To Mr Hope.—I know a factor who has a 'sub' under him, who goes to the markets, and looks after the tenants selling their cattle and corn.

To Mr M'Lagan.—I believe this reckless management arises solely from the law of hypothec. On some estates, where the landlords don't avail themselves of the law, I don't think there are any sequestrations; but on others the farms are let to men with inadequate capital, at pounds an acre more than the land is worth, and the factor, whom I have mentioned, is never satisfied with the rents. I attribute this state of matters entirely to the power which the law of hypothec gives to factors, to squeeze out rents from the farmers, leaving other creditors in the lurch. This system creates a very bad feeling in the country where the practice goes on. On well-managed estates, where the proprietors are willing that the tenants should have a comfortable bargain and pay a fair rent, there has not been much trouble; but, when they see such high rents got on other estates, they naturally ask why they don't get better rents; and very often, when their farms come out of lease, they are advertised, and good practical tenants are beaten out of the field by the men of whom I have been speaking. I have a case in my eye at this moment, where a tenant, wanting both in skill and capital, took a farm, a few years ago, £100 higher than some practical men offered (though I believe there were higher offers than even his), but I understand that the rent has since been reduced £100. So that here is this tenant getting the farm at the same rent which practical farmers and men of skill offered for it. In that way I think the law of hypothec operates injuriously, even on well-managed estates.

To the Chairman.—The cases of sequestration, which I have referred to, have

not been among the smaller class of tenantry. In general, that class have not appeared in the bankruptcy courts. The cases in these courts are chiefly of the bigger and middle-sized farms taken by speculative men. My evidence applies to the whole of the agricultural part of the county of Forfar. A very considerable part of it is under the same management. I have given cases from the largest estate in the county, and all the other instances, with one exception, are from estates under the same management. On one of these estates there are at present six sequestrations. William Goodlet.

(48.) Mr THOMAS SCOTT.

To the Chairman.—I am tenant of the farm of Easter Cadder, Lanarkshire. I have been engaged in the practice of agriculture for nearly fifty years. My father was a farmer, several of my brothers were farmers, and I have sons who occupy farms,—one in England and two in Lanarkshire. My farm extends to nearly 400 imperial acres, and my rent is between £600 and £700 a year. My term of entry is at Martinmas to the arable land, and the following Whitsunday to the houses and grass. My rent is payable at the Martinmas following. There are very few shiftings on the estate. I have known of no sequestrations on the Cadder estate for forty-five years, but there have been a few in the district. I have never experienced any evil effects from the law of hypothec, either directly or indirectly. I think the landlord should certainly have some privilege, but I would modify it to this extent,—that it should only apply to the rent of a particular year, and that grain sold in a sample market, unless in a case of fraud, should not be followed. I would not extend the privilege to grain sold privately in the stackyard. Thomas Scott.

To Mr Carnegie.—I would not do so even if such a sale were followed by delivery. The one is public, and the other may be private. The delivery may be private, and there are cases where the sale may be a kind of fraud.

To the Chairman.—I think the sale by sample, in order to be privileged, should take place in a market, and be registered in the market books. My reason for wishing to put sale by sample on the same footing as sale by bulk is, that there are very few bulk markets, and that sale by sample is more convenient. I don't think the law of hypothec operates prejudicially to the tenants. I think it operates beneficially to them; it is better than giving rent in advance or securities. In the district where I am, the rents vary from £100 to £600 or £700. There are none higher than £700 on the estate. The law of hypothec is beneficial to the tenants, because it gives them a year's credit to pay the landlord off the crop. If the law did not exist, the landlord must have some security. Many of the farmers would not be able to meet fore-rents; some of them would. On the Cadder estate there are upwards of forty tenants, and a more industrious or practical set of men I never knew. They are generally able to meet their landlord pleasantly at every term. They are rising in the world, and will be able to take larger farms. I know several who went to East Lothian from the west, who began on a very small foundation, and have raised themselves by their industry and moderate habits to large farms in the east country. There are men occupying small farms in my district who formerly held smaller farms. There are not a great number in that position, because in most cases their fathers occupied the land before them. Most of them have put out their sons to farms, or are preparing to do so. I don't see that they could fore-rent their farms without a very heavy per-centage of deduction. Not a few on the estate could pay forehanded rents, but it would be no profit to them or their landlord. The farms are certainly too high rented at present for the state of the markets. I don't see that prices are likely to rise much, but I have no doubt a remedy will be given by the landlords in the shape of a reduction of rent.

To Mr Fleming.—I sell my grain in Glasgow to bakers and other consumers by sample, sometimes in public market. If I sell by sample in a baker's shop, I think the landlord should have power to follow it, because it is a private sale; but in public market you are among a number of farmers, and you are seen by your neighbours. I think the effect of fore-renting in my district would be to turn the best of our practical men out of their farms. The effect would be prejudicial as regards agriculture. I heard of a case lately in which growing crop had been sold by a tenant in the knowledge of the factor, and where

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sequestration was afterwards used, but I don't know the particulars of it. I have no doubt there are cases where manure merchants and others lose by tenants, but they would probably have lost by the same individuals even though the landlord had got nothing. I would only give the landlord the privilege for the bygone rent. I would let him rank for the next rent as a common creditor.

To Mr Curror.—A tenant may have been a long time in a farm without being able to pay fore-rent, because he may have educated and put out his family. Some tenants would be able to pay fore-rent, but, unless they got a good deduction, which I don't think the landlords would be inclined to give, I don't see that it would benefit them.

To Mr Hope.—I farm on the six-shift rotation. We break up the lea for oats, then green-crop, then wheat or barley, then hay, and then pasture for two years. We use very little artificial manure. The last two years I have paid nearly £700 a year for manure. I pay all cash, though I am offered it at credit price. I would have no objection to pay fore-rent, if I got 10 per cent. of deduction. I believe a number of tenants on the Cadder estate could pay a year's rent forehanded quite well; but I don't think it would be a benefit to them or the proprietor, and I know a few of the smaller tenants that it would not suit. The lowest rent on the estate is about £100, and there are some from £400 to £600. A number of the farms are dairy farms, being only five or six miles from Glasgow, and these have paid very well, unless where the stock has died out. Some of the farms are advertised when out of lease, but very few indeed, and there have been very few changes among the tenantry. There have been a great deal too many competitions for farms, and no doubt the back-rent system enables tenants with smaller capital to take them. I think it is rather degrading for a tenant to have to pay forehand rents. It is placing him on a level with the very lowest class in the country.

To Mr Carnegie.—A number of tenants in my district could pay forehand rent. I know a tenant who was in a small farm, but left it and went to the east country, where he has two large farms, and is doing well. I took a farm for one of my sons, and in ten years he went and took a farm in England. I have now another son in the same farm. I have not considered whether the alteration of the law which I suggest should apply to existing leases.

To Mr Fleming.—It alters the case very much if in Glasgow there is no sample market. Still I think private sales should not be protected.

Thursday, January 19, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.
MR MURRAY.
MR HOPE.
MR M'LAGAN.
MR CURROR.

(49.) MR CHARLES LYALL.

Charles Lyall.

To the Chairman.—I am factor for the Earl of Southesk. I also farm myself. I have been engaged in the practice of agriculture about twenty-five years. I became a farmer in 1839, and I have been a factor twenty-three years, and fifteen to my present constituent. The extent of my farm is close on 500 imperial acres, and I pay £1300 a year of rent. The term of entry to my farm is Martinmas, and the rent is payable at Candlemas and Lammas after reaping. These are the usual terms of entry in that part of the country. There are some Whitsunday entries, but not on the estate which I have to do with. There are farms on the Earl of Southesk's estate varying from £3 to £1300 of rent. There are in the parish of Kinnell 38 small farms ranging from £1 to £20; in

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another 5, from £1 to £20; and in another 20, from £1 to £20. From £20 to £50, there are 10 tenants; from £50 to £100, 9. The rents above that range up to £1300.

To Mr M'Lagan.—The estate is all agricultural, with the exception of one holding in the parish of Brechin. There are only three or four £1 tenants on the whole estate. They have just a house and garden.

To the Chairman.—There are a number of holdings of five or six acres. They are arable. The small tenants are a thriving set of tenants. I don't think they are making rich, but they are making a comfortable livelihood, and maintaining and educating their families. Generally they have been for generations in the same holdings. I don't think the law of hypothec affects the very small class of tenants, but I think it affects the larger class injuriously. The very small places are not put up to public competition in the same way as the larger farms, at least not in the district I know. There is the same anxiety to get them, but proprietors don't think it worth their while to advertise a very small place. Whether it affects the larger tenants injuriously or not depends a great deal on the management of the property. It operates prejudicially even on well-managed estates in this way—that, if the rents over a county are raised unduly, a proprietor cannot help thinking that he should get more money for his land than he might be advised it is worth. I have no hesitation in saying that the effect of the law is to raise land above its real value; and that is so in the county of Forfar more particularly than in any county that I have the means of knowing about. In that county a great many speculators—men with inadequate means—have taken farms which they should never have possessed. That has chiefly occurred upon estates under a kind of management common to them all. I think it is the law of hypothec which has induced landlords or their factors to let farms at exorbitant rents, and I think the sequestration list in the county goes to support that opinion. I do not know any other mode in which the law operates unfairly to tenants. I think there ought to be a modification of the law, and I would suggest that the proprietor should have a hypothec for the year's rent, according to the conventional terms of payment. When the rent falls due, he should have a right of hypothec for the year's rent; but instead of giving him three months after the date as at present, I would shorten it to thirty or forty days; and I think sequestrations should be published in the *Gazette*. I would give no power of following grain sold by sample in public market, as I consider bargains made in our sample markets as *bonâ fide* as those made in stock markets. I would give the proprietor security over the whole crop and stock on the farm at the time; and I would make it applicable to the rent due, without reference to the crop for which it was due.

To Mr Carnegie.—I would give the proprietor a preferable claim for no more than a year's rent past due, under any circumstances; but I would make it imperative on him to make the sequestration good within a shorter period than he has at present. Just now the term of Lammas is our period for the last half-year's rent, and we have three months in which to make it good; but, if it is necessary to sequestrate a man, the sooner it is done the better; and, if it had to be done within thirty days after 2d August, that would be before he could get the next crop into his hands to any extent, and it would give the landlord time to relet his farm before Martinmas. And, in the event of bankruptcy, and a relet becoming necessary, the landlord might be required to take over the growing crop and other valuations in the same way as if the lease had come to a natural termination.

To Mr M'Lagan.—The landlord would have his hypothec for one year's rent; but, if the lease were brought to a termination, the crop upon the farm would then be liable for the current rent. *Q.* Then he would have the same preferable right as he has under the present law?—*A.* I suppose so. What I mean is that, in the event of a farmer becoming bankrupt in September, and the landlord bringing the lease to an end, there would then be a crop on the farm, and I consider the landlord should be entitled to a right of hypothec over that crop.

To the Chairman.—He would of course have the right of hypothec for the year previous, if made good within the time I mention.

To Mr Hope.—*Q.* Is the difference between your proposal and the present law anything more than that you would give him thirty days from 1st August?—*A.* That is the only difference, and publicity; and I think it should be imperative on the landlord to make the tenant bankrupt, because the system

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of continuous private sequestration from year to year is very injurious. The publication would protect traders.

To the Chairman.—There should be no sequestration unless it is to be carried out. The question of the terms of payment of rents should be matter of arrangement between proprietor and tenant. I would not think it necessary to advise my constituent to ask forehand rents. I don't think any man should pay a rent until he reaps a crop. I don't think the modification I have spoken of would altogether put an end to the undue competition for farms. I don't attribute the undue competition altogether to the law of hypothec. There was a land mania at one time.

To Mr Carnegie.—I was factor for four or five years on the estate of Strachan in Kincardineshire. The farms there were agricultural and pastoral, and the entry was at Whitsunday. The rents were mostly forehand. I never had any difficulty in getting tenants for farms, when they were out of lease, at the fair value of the land.

To Mr Hope.—The small tenants, of five or six acres, on Lord Southesk's estate, have not leases; but there is an understanding between the proprietor and myself, that if they behave themselves properly, and pay their rents, they are to be as sure of nineteen years as if they had a lease. Many of these small tenants are employed in the woods, and they have just as much ground as will keep a cow for their families. Thirty years ago part of the estate I allude to, the Muirside of Kinnell, was mostly a moor. The people are intimately connected with each other. They have not all horses, but they work together. They pay their rents the same as the other tenants. They used to pay at Whitsunday, but, within the last few years, I have brought them to the same term as the others,—after their crop is reaped. I may mention that in 1859 I valued and relet the small holdings in this district without advertising The tenants have generally gone on successfully. In 1862, one whose rent was £40 having left to occupy a property which he had bought, my constituent thought we might advertise his holding, and it was relet to a man well recommended for £70. This tenant has never paid as much as the old rent, and I have no hope he will be able to go on. I give this as an illustration of the reckless way men will offer for land.

To the Chairman.—Where there is to be a change of tenant we advertise, but not where the old tenants remain. The farms are then let by valuation.

To Mr Hope.—I cannot see my way to any further limitation of the landlord's hypothec than I have suggested. If the rents were payable at Martinmas and Whitsunday, I would have no objection to bring the preference which the landlord has to these terms, the same as if the rent were payable at Lammas. That would only act injuriously to the tenant in this way, that he would have to pay a half-year's rent sooner. The law benefits the landlords, by giving them a great preference over the rest of the community.

To the Chairman.—I think it is fair that landlords should have a certain security. I don't think that a landlord who parts with his land for nineteen years is in the same position with an ordinary trader.

To Mr Hope.—The preference conferred on the landlords enables them to secure their rents, however much the tenants are due to other creditors. If the law were abolished, I presume ordinary creditors would benefit in proportion to the loss it would occasion to landlords; or rather, I don't think there would be such heavy bankruptcies among tenants. I don't think they would be allowed to go on to the extent they have done in our county at any rate. I think the modification of the law which I propose would be ample security for the proprietor. If landlords were to insist on fore-rents, it would diminish the number of competitors, and that would reduce the rents to the extent of the capital advanced. It would materially reduce the number of competitors for farms. If farmers who fore-rented their farms were to fail, I suppose there would be a larger division of the stock and crop among their creditors than takes place at present. They would not be allowed to get into arrear. If the landlord had a right of hypothec for only one year, there would be as much in the place as would meet all ordinary debts. *Q.* I understood you to say that the proprietor should have a preference for a year's rent over the crop on the ground, and for the arrears of rent to the extent of a year?—*A.* The crop on the ground would be good enough for the rent. *Q.* But the crop would be all sold before August?—*A.* Certainly the previous crop; but the stock ought to be worth more

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than the rent of the farm. I should not like to part with my stock for a year's rent. Where the system of letting grass and green-crop is pursued, they may have very little stock, but the landlord can prevent that by a stipulation in the lease. If the law compelled the fore-renting of farms, I think it would be beneficial to manure merchants, etc., because there would be more upon the farm. I certainly do not approve of the following of grain. I don't think anything should be followed that has been sold in a *bonâ fide* way. Even if the sale has been private, it should stand good after delivery and payment.

To the Chairman.—I don't think any intimation to the landlord should be required.

To Mr Hope.—If a sale was made after the crop had been sequestrated, and the sequestration published, I would not hold that a good sale. Farmers frequently sell grain to their neighbours for seed-corn, etc. That should not be allowed to be followed.

To Mr Curror.—I don't think there are a great many tenants in Forfarshire that could pay fore-rent, unless it were reduced. It would depend on the amount of the reduction whether they could do so.

To the Chairman.—I don't think the small tenants could pay forehand rents; some of them might. If fore-rents were exacted from them, we would require to get a new class of tenants,—men with a few more pounds in their pockets.

To Mr Curror.—There are not many of the smallest tenants who are totally dependent on their land. Those with forty or fifty acres are. They are mostly in a comfortable state, but there are exceptions.

To the Chairman.—If the smaller tenants were driven out, they would require to take a house and garden without any land, and to labour.

To Mr Curror.—They are in the same position as servants. They are just labourers.

To Mr Hope.—The rents of these small places were all readjusted in 1859. I increased them at that time. They had them before that for almost no rent at all, having taken in the land themselves.

To Mr M'Lagan.—*Q.* Supposing the present law were entirely abolished, what security would you advise your constituent to ask in letting farms?—*A.* I would look out for the very best tenant, and I would stipulate that the farm should be thoroughly well stocked. I would consider that a sufficient security, with the character of the man that I would take. I would not allow him to sublet his grass or turnips. I would insist on the whole being consumed by the tenant's own stock. I would insist on having the farm well stocked during the whole lease. If he met with a great loss from a succession of very bad years, I think the proprietor must take his share of the loss along with the tenant. I would not approve of a statutory irritancy of the lease; but I would put a clause in leases making it optional on the part of the landlord to make bankruptcy operate as an irritancy. I do that at present. I would not advise fore-renting, even if the law were abolished. I don't think that system could be conveniently adopted by the tenantry of Scotland, so far as I know them—in our district at least.

To Mr Curror.—I don't think there would be any difficulty in letting land at fair rents to men of character and skill, even if the law were abolished; for in letting land I never thought of depending on the law of hypothec.

To Mr Hope.—I don't think the law is of much use to those proprietors who manage their properties well.

To the Chairman.—But I would keep it up to the extent I have stated, as a fair thing on the whole. As a factor, I have never, except once, for a very long period, used sequestration of any kind. That case was a very exceptional case, and the sequestration was never acted upon.

(50.) GEORGE MAKGILL, Esq. of Kemback.

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To the Chairman.—I am a landed proprietor in the county of Fife. I have acted for ten years as commissioner on the Earl of Wemyss' and other estates in Gloucestershire. I have directed my attention to the law of hypothec in Scotland, and to the law of distress in England. I have considered the effect of the law of hypothec on different classes in Scotland:—1*st*, tenants; 2*d*, landlords; 3*d*, the trade of the country in general. The direct effect of hypothec

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on the interests of the tenant is, in the first place, precisely equivalent to giving him a cash-credit for the amount of his postponed rent, with the following differences:—1*st*, that he has not the trouble of negotiating the credit; 2*d*, that he is not called upon to find any collateral security; 3*d*, that he pays no discount, at least as discount. If the operation of the law is to increase the rent of land, which is doubtful, the amount of that increase may be considered as discount. The existence of the law of hypothec enables the landlord to let his land at a postponed rent. I think one effect of the abolition of the law would be, that the landlords would find it necessary for their own security to insist on forehand rents. Take the case of a tenant paying £1000 a year rent, with a Martinmas entry; instead of being called on to pay his first half-year's rent at the next Whitsunday, which he would probably be if hypothec did not exist, he gets credit till the second term of Candlemas after entry, that is, nine months, and the same for his second instalment, which, at 5 per cent., is £37, 10s., and for a nineteen years' lease, £712, 10s. The direct effect of the law being thus practically to increase the tenant's capital by that amount, it is clearly a mistake to complain of it as curtailing his credit. It makes little difference as regards his individual interest, whether he obtains that credit from a bank-agent or from a private capitalist, which the landlord may be considered to be. But it is clear that he cannot expect to get it from both. I don't think the tenants of Scotland can reasonably complain of a want of support from the banking interest. The competition of banks has, of late years, at least kept pace with the competition for land; and no respectable tenant, confining himself to the proper business of farming, need want as great facilities from banks, in carrying on that business, as are given to other branches of manufacturing industry. In the case of a backgoing tenant, a bank-manager will of course be cautious; and the more so, that he knows of the landlord's preferable claim. It might be expected that a farmer in a doubtful position would also find a difficulty in obtaining credit from other traders. But it does not seem that the law has much practical effect in this direction; for it is stated that cases are of frequent occurrence, in which the landlord gets paid in full, and the general creditors have to accept a small dividend. If this is so, it is evident that in all such cases the tenant's credit was not injured by the landlord's hypothec. A strange fallacy seems to run through the evidence of some of the larger tenants on this subject. They advocate the total abolition of hypothec on the grounds, 1*st*, that it would enable farmers to obtain increased credit from banks; and 2*d*, that it would check undue competition for land. One or other of these assertions may be true; but it is clear they can't both be so. For if abolition would increase bank credit, that would in itself stimulate competition in the same way as hypothec. As regards the tenant's credit generally, it may be safely asserted that the existing law, if not positively favourable to tenants of sufficient capital, is at least not injurious to them. Its stringent effect is never felt by tenants of this class, and is experienced by those only whose means are insufficient to meet their engagements. If a man has once got into serious difficulties, the effect of the law may sometimes be to increase his embarrassments; but the embarrassment, or even total extinction of tenants of this unfortunate class, seems to be a result which the higher agriculturists regard as rather desirable than otherwise. As to the undue competition for land which is so much complained of, if rents are unduly raised by that competition, I don't see that the abolition of the law of hypothec would remedy the grievance. I should say that, in some parts of Scotland, land is let too high, but that is not necessarily owing to undue competition. It is quite possible that a rise of rents may take place, not only without any increase in the number of competitors for land, but even where their number is diminished, and farming profits decreasing. Indeed, from the very nature of rent, the tendency always is for rent on the one side, and wages on the other, to encroach on and reduce profits. It may be safely assumed, that much of the complaint against competition is another form of complaining against rise of rents; but a general rise of rents can only proceed from a set of causes wholly unconnected with competition. The fact of the increase of competition of late years however cannot be doubted; but it is evidently very difficult to determine how far it can be fairly called undue. And that it is not wholly traceable to the effects of hypothec is evident from two considerations:—1*st*, that it prevails to a very considerable extent where no such law exists. In England, where farms are

rarely advertised, there are scores of applications for every eligible farm. 2*d*, That it is only of late years that it has become a subject of complaint in Scotland, where hypothec has been the law from time immemorial. These considerations lead us to look elsewhere for the causes of this competition. Some of these are doubtless to be traced to the operation of general economical laws, which no legislative change can effect—the increase of capital in the country stimulating competition in every branch of industry, and the more so in agriculture, from the limited extent of available land. In addition to this, there are, I think, some causes peculiar to Scotland. The dangerous extension of potato cultivation, and the large profits realized from it in some years, have perhaps encouraged a class of speculators to become offerers for land, who would not have been induced to do so by the ordinary rate of agricultural profits. The practice of advertising farms no doubt encourages competitors, as does also the objectionable practice of letting land by tenders. A better practice is to have the land valued, and the rent fixed, by a competent person, and, after careful inquiry into the circumstances and past career of the candidates, to select the one who seems best qualified. If the abolition of hypothec were to discourage or wholly extinguish the class of small farmers holding one or two pair-horse farms, I should regret to see it sanctioned by the Legislature. I think that throwing estates into large farms may be carried too far. I should like to see on large properties a gradation of holdings. I have known several cases in Scotland of farmers rising from small beginnings, and prospering. I know a case in my own immediate neighbourhood, in Fifeshire, where a person began the world with one horse and a cow, and ended by purchasing a farm from my father, for which he paid £13,000.

To Mr M'Lagan.—He made his money as a grazier and small farmer.

To Mr Carnegie.—He began with a farm of a very few acres.

To the Chairman.—The credit created by hypothec must have been a material assistance to such men at the outset. To landlords the law of hypothec affords a tolerable security for their rent. If it were abolished, they would require some other security. In the event of a total abolition of the law, I should say that the only remedy for the position in which the landlord would be placed would be an assimilation of the law to that of England, including the law of distress for rent. The English law gives the landlord a preferential right as against other creditors for a year's rent actually due. That extends over everything on the farm,—to whole stock and crop, even including the furniture in the house. The preferential right which the landlord has against other creditors is merely to this effect, that, in the event of a creditor selling the goods of a tenant, he must first offer the landlord any arrears of rent already due, not exceeding the rent for one year. The law of distress is in some respects similar to the law of sequestration in Scotland, but differs from it in that, 1*st*, it requires no procedure at law, or application to a judge—the lien being perfected by the mere act of the landlord or his agent; 2*d*, it gives security only for rent actually due and in arrear.

To Mr Murray.—The distraint is known to all. The proceeding is for the landlord, or any one appointed by him, to enter upon the premises, and either by verbal or written notice to seize any goods or chattels that may be on the premises, whether these goods belong to the tenant, or to any other person.

To the Chairman.—He may seize for any amount of rent, but not more than six years; so that one may suppose a case, in which a landlord has allowed his tenant to get six years in arrear, and levies a distress for the whole of that at once.

To Mr Murray.—If there were other creditors, he would have a preference for only one year, and would rank with the other creditors for the remainder.

To Mr Curror.—If he were first in the field, he could seize all, and be paid everything.

To Mr Murray.—Another creditor could not come in and break down his preference. Bankruptcy does not affect the landlord's right to distrain, provided the goods are on the premises.

To Mr Hope.—The next proceeding after the seizure is to make an inventory of the articles seized, and then to serve a written notice of the distress upon the tenant. The goods must then be appraised by two sworn appraisers, appointed under the authority of the sheriff, or by the constable of the parish. After appraisement, the goods may be sold to the highest bidder on the expira-

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tion of five days after the seizure (but this time may be enlarged with the tenant's consent), if they are not replevied within that time. If he does not sell at the expiration of the five days, the landlord, unless the tenant has consented to the delay, would be deemed a trespasser, if he remained in possession; but, in point of fact, it is always for the tenant's interest that the time should be prolonged, that the goods may fetch an augmented price, and the tenant always consents to their remaining till sufficient notice is given for a sale.

To the Chairman.—No other creditor can then come in. The goods are in the custody of the law, and other creditors cannot interfere with the distress.

To Mr Hope.—I do not think the landlord and tenant could make an arrangement by which the tenant should continue on the farm, and his goods be distrained every year for his rent. Any arrangement of that kind to defeat other creditors there must be some remedy against. The law of distress does not apply to future rents, but only to rents actually due.

To the Chairman.—The tenant's bankruptcy does not bar the landlord's right to distrain. By statute he may, notwithstanding an act of bankruptcy, enter on the premises, and distrain any goods thereon, to the value of one year's rent, but not more. For anything beyond that he ranks with the ordinary creditors. There is a similar preference in the case of insolvency. The certificate of a bankrupt does not operate as a release from a claim for rent due.

To Mr Carnegie.—Bankruptcy does not put an end to the lease unless there is a special covenant to that effect.

To Mr Murray.—Where the goods remaining on the premises are not sufficient to make an effectual distraint for the rent due, the landlord can proceed to eject the tenant, by statute 4 Geo. II. c. 28. If the goods exactly amount to the rent due, he cannot proceed to eject him. Suppose the goods are beyond the rent due, and the landlord sells these, but there is not sufficient left for the stocking of the farm, the landlord can only get rid of the tenant, in the case of yearly tenancies, by giving him warning to quit in six months. If his entry is at Lady day, the landlord must give him notice to quit on or before the Michaelmas preceding. There must be six months' notice on either side. The landlord may sometimes be left with a tenant who has insufficient stocking to work the farm; but his risk is diminished in the case of a yearly tenancy, because he can only lose six months' rent. The usual terms of entry in England are Lady day (25th March), and Michaelmas (29th September). The first half-year's rent is payable six months after entry.

To the Chairman.—In the case of a Lady day entry, part of the crop is cut by 29th September, but it is not sold. In the case of a Michaelmas entry, the tenant has of course no crop.

To Mr Murray.—The landlord would always leave a sufficient force of horses, etc., to work the farm for the six months, and he would probably distrain at Michaelmas, so as to include the crop; and the notice to quit would be given so as to run out at Michaelmas.

To the Chairman.—Among the customary securities, I should first mention that the practice in England is in general to have yearly tenancies, and not leases. Leases are the exception in England. The system of yearly tenancies is not so productive of bad farming, as in Scotland one would imagine. There is more prevailing confidence on the part of those yearly tenants than we in Scotland could reconcile with prudence; but there is that confidence that a tenant will not be turned out unjustly. Most of the great hereditary estates of England, even in the most improved districts, still let from year to year. The great improvements in the Brocklesby estates, the value of which has been increased from £7000 a year to £35,000, were, I believe, carried out under a system of yearly tenancy. Parts of Lincolnshire, Berkshire, and Hertfordshire, are as much in advance agriculturally as our best counties in Scotland. I believe that, in point of fact, parties continue under the system of yearly tenancies to hold their lands for much longer periods than tenants in Scotland do under nineteen years' leases. I certainly do not advocate the introduction of yearly tenancies, in preference to leases, into Scotland. I can scarcely go the length of saying that the abolition of the law of hypothec would make landlords averse to granting as long leases as they do now, but I think I may say, that probably the existence of the landlord's right of hypothec has encouraged the practice of granting long leases in Scotland. Another customary

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security, which landlords have in England, is the payment of forehand rents. That is nearly universal. I know cases in which rents are postponed for a quarter, and in some cases for a half-year, but they are comparatively rare. On large properties the audits or collections of rent are generally two or three months after the legal terms. If the law of hypothec were abolished, I think it would be the landlord's interest to endeavour to introduce forehand rents in Scotland. In general the limitations as to cultivation in England are more stringent than they are in Scotland, and, though forming no security for the rent, ensure the landlord, to a great extent, against the serious deterioration of his land by a backgoing tenant. The general rule in England on estates not near towns is that nothing is allowed to be sold off the land but grain, stock, wool, and cheese. In most agreements, whether in leases or yearly tenancies, the landlord reserves a right of re-entry, or what we should call covenants of irritancy in Scotland. I have here one of these agreements, and it provides that in case of death, assignation, non-performance of conditions, insolvency, or misdemeanour, on the part of the tenant, the landlord shall have power to re-enter.

To Mr Carnegie.—The landlord must give notice.

To Mr Murray.—To enforce his right against a tenant who refuses to quit, he must proceed by action of ejectment in any of the Courts at Westminster. He could not bring such an action in the County Court. These covenants of irritancy are very seldom acted on, but they afford a hold over insolvent tenants. They make a tenant cautious not to do anything that would create the irritancy.

To the Chairman.—The Scotch law and practice of postponed payments seem to indicate that the relation of landlord and tenant was originally viewed as a partnership, entered into for the purpose of raising a certain produce, and disposing of it for their joint benefit, and that, in consequence of that partnership, the tenant's right to the produce is imperfect, until the landlord's claim is satisfied, and that, till this is done, the landlord retains a joint property in the crops; whereas in England the rent is payable in no respect for the crop, but for the actual possession. In my experience, the system in England works well. Rents are generally punctually paid. On the estates under my charge, the rents of which are about £12,000 a year, the arrears seldom exceed £10. The size of farms varies from £50 to £1000 of rent. In case of fraudulent or clandestine removal of the goods, to elude distress, they may be followed, and, in any time within thirty days of such removal, seized and brought back, even though stored in lockfast places. The goods however cannot be vindicated from a *bonâ fide* purchaser not privy to the fraud.

To Mr Hope.—The good faith of the purchaser protects the sale. That is before the goods have been distrained. If they have been distrained, the rescue of them amounts to a misdemeanour.

To the Chairman.—*Bonâ fides* on the part of a purchaser would not protect goods taken away after distraint.

To Mr Curror.—Distraint is not published.

To the Chairman.—But the goods are in charge of the law. In regard to the practice of following grain, I think the Scotch law ought, to a certain extent, to be assimilated to the English law. As a matter of commercial principle, it seems a most anomalous thing that a person who has bought a commodity from the owner in open market, paid for and removed it, should be afterwards deprived of it by a third party. Much depends on the actual extent of the grievance. If its occurrence is very rare, it may be questioned how far it is wise, for the sake of redressing a few isolated cases of hardship, to unsettle the relations of landlord and tenant by any alteration of the present law. But if it can be shown, either that the cases of actual vindication are frequent, or that the apprehension of it materially interferes with the trade of the corn-dealer, the law should be modified. But this does not require a total abolition of the law. All that is wanted is to place the *bonâ fide* purchaser of grain on the same footing as the purchaser of cattle, along with an enactment against fraudulent or clandestine removal, similar to that in force in England. I would extend the privilege to a private sale by a tenant in his stackyard, provided notice were given to the landlord. I think a tenant selling privately in that way should be bound to give notice to the landlord.

To Mr Carnegie.—Such notice is not necessary in England.

To Mr Hope.—I think it is questionable whether the system of postponed rents makes rents higher than they would otherwise be. There is no doubt

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that land lets higher in Scotland than it does in England; but the difficulty is to trace it to the law of hypothec. It may be partly accounted for by the system of yearly tenancies in England. The tenants in England do not wish leases. I have introduced them on one estate of which I have the management, and I don't think they are appreciated. I can find no difference in the mode of managing the farms since they got leases. Generally Scotch leases do not contain such stringent covenants as to cultivation as the English agreements do. In England the tenants pay for actual possession, without reference to the crop. I don't think such a practice in Scotland would be against the interest of landlords or tenants. The difficulty would be the first introduction of it. I am not aware of the amount of dividends which tenants generally pay on their becoming bankrupt in England. That does not very often happen in my quarter. The law of hypothec allows proprietors to postpone the payment of rents in Scotland, with perfect security to themselves. I think the postponement of rents is equivalent to a cash-credit to the tenants to the amount of their rents. It increases their capital to that amount. It enables tenants with insufficient means to take farms which they could not otherwise do; and I should think this would increase the number of candidates for farms. Increased competition generally raises the price of an article; but it may or may not have the effect of enabling landlords to get higher rents. If the rates of profit are falling, competition will not necessarily raise the rents. One can imagine a state of matters where numerically the candidates wanting land are increasing, while the rate of farming profit is decreasing, and the landlord's rent also. The law enables landlords to secure their rents, however much the tenants may owe to other creditors. If the law were abolished, the ordinary creditors would benefit in proportion to the loss it would occasion to the landlord. When a tenant is sequestrated in August, September, or October, it is generally for the previous year's rent, and the landlord has nothing but the implements and stock for it. He sequestrates also for the current year's rent the crop that is in the stackyard. If the land had been fore-rented, there would have been an additional year's crop to divide among the other creditors. That would be very beneficial to wrights, blacksmiths, etc. *Q.* Don't you think it would be advisable that we should adopt the law of England?—*A.* I think there is only one alternative between the partial alteration of the law which I have noticed,—of legitimizing the sale by sample, or a total change of the law, and the assimilation of it to that of England.

To Mr Carnegie.—It would be necessary in that case to assimilate the law to that of England entirely, with reference to the amount of arrears for which the landlord could go back, and with reference to his preferable claim, supposing him to be first in the field, as against other creditors. There may be many legal and technical objections to such a course which I cannot see.

To Mr Hope.—It would certainly be practicable to alter the law of hypothec, to the effect of legalizing sales by sample, and making the landlord use his right of preference at the end of the term of possession, as in England; but, unless the terms of payment were changed, that would be unjust for the landlord. I don't see how an exception could be made of current leases, without risking the beneficial effects which are anticipated from the abolition of the law, because the grain-dealer would in every case have the trouble and risk of ascertaining for himself whether the person with whom he was dealing was farming under an old lease or a new one.

To Mr Carnegie.—The current prices of manures seem to me to be very much the same in Scotland as they are in a list which I got from a Gloucestershire dealer the other day. The prices of the principal manures were the same within a shilling or two. The differences between cash and credit prices were as nearly as possible the same in both cases. I should not like to throw much weight on the case I mentioned of a man who rose from a very small farm to buying an estate. It was a peculiar case, and the credit which he got from his landlord must have been very small. I can see no reason in equity why sequestrations in Scotland, and cases of distress in England, should not be published. I am perfectly satisfied with the law of England as it stands, so far as regards the recovery of rent. I don't think it inflicts any hardship on the creditors of the tenants; but I am not aware what dividends have been paid in these cases. Distress or bankruptcy is very uncommon among tenants in the parts of England with which I have to do. *Q.* Do you consider that a yearly

tenancy is any security to the landlord for rent, beyond a lease with a clause of irritancy in the event of bankruptcy?—*A.* From the period being shorter, his risk is less. If a landlord has the power, by giving six months' notice, to get rid of an insolvent tenant, he evidently runs less risk than if his relation with that tenant is such, that he may be a year or a year and a half's rent the loser. If there is a clause terminating the lease in the event of bankruptcy, the landlord is as secure as in the case of a yearly tenure. But the difference is, that an English landlord does not require to wait for the bankruptcy of his tenant, but can give him six months' notice, and get rid of him at any time. It is no security for the payment of rent. There is another security which I have not yet noticed—it is, that along with the system of yearly leases there has grown up in England a system of tenant-right, which in some parts of the country has attained very large proportions, and which, being as it were a set-off, forms an important security to the landlord for the rent due. The tenant is entitled to certain repayments for manures, for cake, and for acts of husbandry actually performed on the land, so that, in cases that have come within my own knowledge, I have known the payments due to a tenant at his outgoing greatly exceed his last half-year's rent, and in some cases exceed the whole year's rent.

To Mr Hope.—I have here a lease upon a property of which I have the charge, in which the payments are limited to the full value of the oil-cake consumed on the premises, bones and super-phosphate used during the last year, and one-fourth of the amount consumed in the previous year; but the practice is very various. That is common in Gloucestershire, and in parts of Worcestershire. In many parts of England the tenant-right is of much wider extent; in Lincolnshire particularly.

To Mr Curror.—It is matter of special stipulation in Gloucestershire, whether or not it extends to farms not let on lease. The usual practice is, that the outgoing tenant has a claim for acts of husbandry, ploughings, harrowings, etc., on the crop that is left; and, in addition to that, he has a claim for the super-phosphate, but not for the oil-cake. In Lincolnshire, the practice is much more extensive. The usual allowances in North Lincolnshire, I understand, are, as to bones, two-thirds for the last year, and one-third for the previous year, and the same for marl, lime, and clay. In the lease from which I read there is a limitation to £500 for oil-cake, and the rent of that farm was £950.

To Mr Hope.—I have sometimes had doubts whether in practice this was fairly gone about.

To Mr M'Lagan.—I should not recommend the introduction of the system into Scotland, because I think it can be arranged in other ways by leases.

To Mr Curror.—Our leases are generally for twelve or sixteen years.

To Mr M'Lagan.—If the law of hypothec were abolished, I think the natural effect would be that the landlord would try to have more command over his land.

To the Chairman.—I don't think that would be unfavourable to the interests of agriculture generally.

To Mr Carnegie.—I should not say that leases are becoming more common in England than they were. There are districts in England where they are probably the rule, and yearly tenancies the exception, as in Norfolk. Where we get Scotch tenants, we always have to give leases.

To Mr M'Lagan.—I don't think the English tenantry are generally averse to leases, but they don't appreciate them. It makes very little difference on the style of farming. On large estates, a tenant in a yearly tenancy lays out his capital very much in the same way as those who have a lease.

To Mr Hope.—In Lincolnshire, where drains are executed by the tenant, there is an allowance made for them; but almost universally now the drains are executed by landlords, and a per-centage charged. The charge is generally 5 per cent. According to the custom of the country, where there is no special stipulation, the tenant is bound to repair the homestead, the landlord finding the materials.

To Mr Carnegie.—The re-adjustment of rent is not very common in the case of yearly tenancies. I know cases in which the rent has not been re-adjusted for a lifetime.

(51.) Mr ALEXANDER TAYLOR.

Alexander Taylor.

To the Chairman.—I am tenant of Cushnie, Kincardineshire. The extent of my farm is about 250 imperial acres. The valuation is £300, but I pay only £56. I have a liferent lease. I have been twenty-six years tenant of it. It is wholly arable. I have not been personally affected, either directly or indirectly, by the law of hypothec; but I have a strong opinion upon it, arising entirely from my sympathy with friends and neighbours. I am in a better position than they are in, because of my small rent. There was not an arable acre on the farm when my grandfather got it. He paid half the purchase money of it in the shape of a *grassum*, and he got a lease of two nineteens and a life. My small rent pays 12 per cent. on the purchase money. My grandfather built a steading quite suitable to the farm, even at the present day. My last account for manure was £120. To some extent the prices of manures are raised by the law of hypothec, but not materially. Of course the dealers must make the good customers pay for the bad ones, but beyond that I don't think I suffer. My friends and neighbours suffer, I think, from over-competition and the admission to farms of mere adventurers. That has prevailed to a very considerable extent —to a ruinous extent on some estates. For the last three years we have had fifty-nine sequestrations in our county. Most of these were of adventurers. I call them so because many of them had neither skill nor capital. Many of them came from other occupations. In the county of Haddington, which contains about the same extent of arable land, there have only been three or four sequestrations annually during the same period. On one estate close beside me, which was bought about 1852, there has not been a single lease renewed with an old tenant except one; and on seven farms let during seven or eight years there have been twenty tenants, one of the farms having had no fewer than four tenants. I attribute this state of matters to the law of hypothec, because I think it induces the landlord to take the highest bidder; and that has an influence over the whole county, because other landlords think they should have as much for their farms. It would be very difficult to say to what extent the abolition of the law, and the diminution of competition, would diminish rents. A good many of these men have remained on their farms only from two to five years. They live a few years at the expense of their neighbours, and they calculate on nothing else than bankruptcy at the end. Notwithstanding these cases, the same thing is still being done. I was told by a farmer in my neighbourhood on Monday last, 'I am the fifth tenant on my farm in six years.' The law of hypothec also tends to foster a system of false credit. These men have clubbed together, and signed bills, and got cash-accounts together for years, the bankers making themselves safe by getting half a dozen names. I heard the other day of a cash-account for which there were half a dozen names, and none of them were able to pay their share except one man, and he has been reduced to be a cattle-man in consequence. If manure dealers exacted security of that kind, there would be less business done. One manure dealer told me that he often declined to give credit to parties that he doubted; and another dealer told me the same thing, and added, that it was impossible to find out the circumstances of tenants. The general practice is not to pay cash for manures. The views of the farmers of our county are well expressed in a series of resolutions adopted at a meeting held in Stonehaven. The following are the resolutions:—

'At a meeting of farmers, corn merchants, manure merchants, and others, in Kincardineshire, held at Stonehaven on 3d March—Colonel M'Inroy of The Burn in the chair—the following resolutions were unanimously agreed to:—

'Moved by Mr Smith, corn merchant, Stonehaven; seconded by Mr Barclay, farmer, Hallgreen:—I. "That the law of hypothec, as it affects landlord and tenant, may, in a time of feudal servitude, have been wise and proper; but now, when the traffic in land has assumed more of a mercantile character, its operation is unfair to the creditors of the tenant, such as manure merchants, who, in this small county, cannot have less than £60,000 annually afloat without any security, and the manures furnished are applied to raise those very crops over which the landlord has a preferable right; to the grain merchants and cattle dealers who may be called upon to make repetition of payment on a *bonâ fide* purchase; and to bankers, who have made advances in a time of general depression, whose securities are unduly affected by this law."

'Moved by Mr Johnston, Cairnbeg; seconded by Mr Burness, Redford:—II. "That the law, as lately laid down by the Lord President, in the jury trial of *Barns* v. *Allan and Co.*, extends to grain after it has been manufactured into meal or flour. Such a protective law enables the landlord, or those acting for him, in the letting of land, to act with reckless indifference, and to disregard those absolute requirements in tenancy—skill, enterprise, and capital; and it thereby of necessity promotes a frequently intense and always unfair competition betwixt men of experience and substance on the one hand, and mere adventurers on the other, thus running up the hire of land to a fictitious rate; and one result is, that men of capital are being quietly but gradually driven either to England or to the colonies for safer investments." Alexander Taylor.

'Moved by Mr Alexander Bent; seconded by Mr Welsh, Brawlinmuir:—III. "That the law of hypothec—which, we believe, does not rest on the statute law, but has been the growth of ages, and now forms part of the common law of Scotland—is flagrantly unjust and oppressive in its operation, and wholly unsuited to the modern and mercantile requirements of relationship betwixt landlord and tenant, and therefore ought to be abolished."

'Moved by Mr Boulton, C.E., Laurencekirk; seconded by Mr Turriff, Criggie:—IV. "That this meeting, composed as it is chiefly of those connected with practical agriculture, is most desirous the matter should be discussed in a moderate and conciliatory spirit; but, at the same time, they wish to express a feeling of uncompromising hostility to this impolitic law."

'Moved by Mr Salmond, Balfour of Durris; seconded by Mr Brown, Megray:—V. "That a committee be appointed to draw out a petition to Parliament based on the preceding resolutions, to communicate and co-operate with similar committees in other counties, and specially to watch over the proceedings of the select committee of the House of Commons, for which Mr Carnegie has given notice that he is to move after Easter."

'A committee was then appointed to carry out the purpose of the resolutions, composed of the movers and seconders of the resolutions, with power to add to their number, with Mr Taylor, Cushnie, as convener.'

The hall was quite crowded at the meeting.

To Mr M'Lagan.—The chairman did not agree to the resolutions. He did not enter a protest. He agreed to preside, but he told us that he did not agree with all that was stated in the resolutions.

To the Chairman.—They were unanimously agreed to, except by the chairman. Mr Scott of Brotherton made some remarks, but did not dissent.

To Mr M'Lagan.—I am aware that Colonel M'Inroy has recently expressed his views on the subject, and that he is in favour of the law of hypothec being continued. Colonel M'Inroy is a liberal landlord. A petition based on these resolutions was sent to Parliament. It was signed by upwards of 1300 persons. The constituency is 1014. We appointed two farmers in each parish to get signatures. All these were tenant-farmers, or respectable tradesmen in the county.

To the Chairman.—I think I know half a dozen large farmers who refused to sign the petition, but they are chiefly land-stewards or advisers as to estates. The small tenants signed it almost universally, and a great many crofters signed it. I think the abolition of the law would relieve these small tenants of competition, much in the same way as the larger tenants. I have no doubt there is the same competition for small farms as for large ones. The hypothec secures the landlord in two years' rent, and thereby enables him or his agent to accept the highest bidder, without reference to his having either skill or capital. I think the abolition of the law would stop that undue competition, and lower rents; but we don't fear competition if we have free trade in all its entirety. We should be sorry to throw any obstruction in the way of a man rising in his business, or coming from any other profession.

To Mr M'Lagan.—There would still be plenty of competition, even if the law of hypothec were abolished. I have no fear but the landlord would get full value for his land; but we want to bring farms to their fair value.

To the Chairman.—Our old tenantry are leaving the farms. I know one family which was 200 years, another 160, and another 70 years in their farms, and they have retired or gone to England.

To Mr M'Lagan.—I think the landlord should have no statutory security whatever. I do not say that every landlord in my district lets his farms to the highest bidder. There are some very excellent landlords; but the prevailing rule

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is, that they are too fond of a high rent, and the whole of our land is too high rented. If the law were abolished, the landlords would take good care to inquire into the means and circumstances and skill of the offerers. At present, in many cases, they do not. I look on a landlord simply as a capitalist. In my own neighbourhood there are two or three large properties, which have been bought within the last few years by men who have been the architects of their own fortunes. They formerly had their money invested in hazardous mercantile speculations, bank stock, railways, etc., and they had no security there for their interest. By withdrawing their money from mercantile speculations, and investing it in land, why should they have a statutory security for their rents when they had nothing whatever when they had their money in these hazardous speculations? The landlord has the land; let him get the best tenant he can, and make as stringent conditions as he likes, but don't give him any legal protection. The amount which a good tenant lays out on the land is a security to the landlord. Fore-renting would be a matter of bargain between landlord and tenant. On the estate of Riccarton in Kincardineshire the whole rent is paid before the crop is reaped. The entry is at Martinmas, and the rents are payable at Candlemas and Lammas, before a crop is reaped. Again on the Arbuthnot estate, with £10,000 of a rental, hypothec is of no use to the small tenants, because they pay full rent at Martinmas after reaping. I should not call a man an adventurer unless he were deficient in capital and skill. I know several tenants who have come from other professions, and who are possessed of capital, and in the last few years they have been losing money. I know of one, a man of ample capital, and who lays it out liberally and judiciously on his well-managed farm, but he is too high rented. He told me that, in making up his accounts, he charged no interest for capital, nothing for family expenses, and yet was losing money annually. He can afford this, because he has another business to trust to. But we don't object to these men, nor do we object to poor men rising. The men we object to are those who have inadequate capital, and offer rents which they know cannot be paid. I have a letter from a salesman in Edinburgh, stating the particulars as to two of these men who ordered cattle from him,—one to the extent of £372, and the other, £352,—and all he got in the shape of dividend was in the one case 5s. a pound, and in the other 10d., the landlord having pocketed £618 of this salesman's money. His cattle were sequestrated the very day they went on the farm. One of these tenants entered on his farm with £4000 of actual debt. The landlord never inquired about him. He kept the farm for two or three years, and failed for £6000. The landlord was paid in full. In another case, a grieve to the same landlord took a farm on a neighbouring estate, and on his examination in bankruptcy it came out that he was £70 in debt when he entered on the farm. He failed for £10,000. The landlord was paid in full. If landlords wish to help poor industrious men, as they profess to do, let them take the risk of loss, and not throw it on the public.

To the Chairman.—This system of letting land to adventurers always existed more or less; but it has come out to a great extent within the last few years on certain estates. As to that, however, I should give credit to the old families, and say that it has been more common on the estates of persons who have bought land recently. I do not attribute this entirely to the law of hypothec; but I think if landlords had not the protection of that law, they would be more careful.

To Mr M'Lagan.—The landlords should make their own arrangements for any security they can obtain. It might be more inconvenient for tenants to find collateral security than even to be under the present law; and if the landlords had not abused their hypothec to a great extent, there never would have been this outcry against it. I know a proprietor in my neighbourhood who had several farms to let some years ago. A substantial tenant worth £8000 offered to take his own farm at the landlord's agent's valuation, but more was asked. He would not give this, and the farm was advertised, and let to another party. I do not think that there should be any statutory irritancy of the lease in the event of bankruptcy, though parties might agree to put it in their leases.

To Mr Hope.—When the tenants to whom I have been alluding became bankrupt, the tradesmen around have suffered very severely. I have here a letter from a veterinary surgeon and blacksmith, who has lost £660 in twelve years. He makes agricultural implements, and he says he saw £200 of his own implements sold at almost full value, while he only got some 3s. 6d. or 3s. 9d. in

the pound. Another man—a butcher and cattle-dealer—writes that he has lost £532 within the last few years; another £65. There are many other cases which I could name. A millwright writes me:—'When ——, farmer, failed, he was owing me £21, for which I got a dividend of 4s. 10d. There was also a balance of another account for jobbing of £5, for which I never ranked. I also lost with Mr ——, farmer, £6, 15s., and got 1s. 2d. per pound. About the same time, I lost £9, 12s. of an account with Mr ——, farmer, for which I got nothing, as the laird required it all.' In the same village, I found that the tailor lost £23, 12s.; a widow with a large family, who keeps a shop, lost £20; a butcher, who struggled hard to keep a wife and ten children, lost £25—that and other losses obliged him to emigrate, and subscriptions were got up for his family, which he was obliged to leave behind him. Many of these losses were with a man who had neither skill nor capital, and was accepted because he was the highest bidder. The family who were turned out had been in the farm for nearly a century. The last occupant had always paid his rent, and offered for the farm as much as it was worth. I once said to a factor that I was astonished at his taking such and such a man. He said, 'He has not much capital, but it will last till the steading is built and some improvements made, and then he can go;' and the man to whom he referred did not take a second crop off the land, and his successor only held the farm two years, and paid 1s. 2d. in the pound. The proprietor was paid in full.

Alexander Taylor.

To Mr Curror.—All the fifty-nine sequestrations which I have mentioned were of small farmers; and the small tradesmen in the district suffered in almost every case. A blacksmith states that he had an account of £40 against one farmer, and only got 1s. 1½d. per pound, while in another case he only got 2s. 8d. per pound. Many of these blacksmiths get their premises from the landlord on the understanding that they are to work for the surrounding tenantry, and they are obliged to work for them. They cannot ask prepayment, and they must trust to the selection of the landlord.

To Mr Curror.—There are plenty of good men offering for farms; but many are retiring from farming rather than give the rents that are asked. They know that they would lose their money if they gave these rents. I know another case in which a lease expired in 1862. The farmer was a rich man, and wanted to renew the lease. The factor said he was quite satisfied with him, but the farm would be advertised, and he could bid with the others; but the tenant said if he was to be treated in that way, he would have nothing to do with it. The farm was advertised, and let for more than double the old rent to a country shopkeeper; but he had so little capital that he did not enter upon it. The next offerer was then had recourse to, and he was bound to take half the outgoing tenant's crop. He could neither pay for that nor give security, and the old tenant sold the whole crop. The old tenant has retired, waiting to take a farm. He is quite independent, and put one son in a good farm a few years ago. Landlords complain that they get small interest for their money, taking present value; but it is to be noticed that the rental of Kincardineshire was £98,000 in 1815, and it has nearly doubled within the half century. It is now £187,914.

To Mr M'Lagan.—The tenants have taken in most of the land themselves, and a great deal of the drainage has been done by Government money, which is being repaid by the tenantry, at the rate of 6½ per cent.

To the Chairman.—I don't think tenants are deteriorating; but the land is all over-rented, and they are losing their capital.

To Mr M'Lagan.—This is partly to be attributed to the bad seasons; but even if prices had not come down so much, I don't believe it would have been safe for men to take the farms at the rents they have taken them at.

To the Chairman.—The smaller tenantry in Kincardineshire are not generally fore-rented, but on several properties they are. A good many of those who signed the petition are fore-rented. On the Crathes estate one-half the rent is paid forehand. I dare say many of them signed the petition knowing that the result might be that they would be fore-rented, though I don't think fore-renting necessarily follows the abolition of the law.

To Mr Murray.—Many of the small tenants would not be able to pay fore-rents. I may mention the case of a farmer who entered on his farm in 1856 or 1857, and had three crops, but became bankrupt in 1859. The claims on his estate, exclusive of rents, were close upon £1400, on which a dividend of 4s. 10¼d. per pound was paid in 1860, after reaping crop 1859. Some of the rankings on

Alexander Taylor.

this estate were cases of very great hardship. In another case, the dividend was only 1s. 2d. per pound.

To the Chairman.—I am quite clear that that part of the law which permits the following of grain should be abolished. I have known a good many claims made for repetition of the price, but, when the tenant's assets were realized, the landlord found there was as much as paid him. I don't think the abolition of the law should apply to existing leases. *Q.* Why do tenants offer higher rents than they deem the land to be worth?—*A.* There are many tenants who have money enough to stock a farm; but if they took it out of the farm it would not yield interest enough to keep them. I think the law is a degrading thing to tenantry. One factor in Forfarshire keeps a man who follows cattle that are sent to market, and sometimes takes possession of them and sells them.

To Mr Murray.—*Q.* How do tenants submit to this?—*A.* The tenants cannot help themselves; but, if they were not reduced by extreme rents, they would not submit to it. I also hold that the law is an instrument of political coercion on tenantry. There is a complaint that tenantry are at the beck of their landlord, but they will not be independent as long as this law exists. *Q.* How does it affect them politically?—*A.* I once said to a factor in my neighbourhood, that, if farmers were not heard on the matter of hypothec, they must stand shoulder to shoulder at the polling booth. The reply was: 'No fear of that; they are tied neck and heel.'

To the Chairman.—A neighbour of mine, who had 250 acres of land, has taken a farm of 300 acres, within nine miles of Charing Cross, in Kent, at £500 inclusive of rates. The present tenant of his old farm in Kincardineshire pays £900. I know another case of a tenant who went to Northumberland and took a farm, the entry of which was at Whitsunday, and the rents payable at Martinmas and Whitsunday after reaping. The landlord was quite satisfied with a reference without security; so that fore-renting is not universal in England, where there is no hypothec.

(52.) Mr WILLIAM ALEXANDER.

William Alexander.

To the Chairman.—The name of my farm is Bent of Haulkerton, near Laurencekirk. I concur in most of Mr Taylor's evidence. I think the country generally is made the security of the landlord. The leases are generally very stringent, bringing them to a close, if the tenant is unable to pay his rent when due. The letting of land has taken a strong commercial turn. In the district I am in, since I recollect, there is only the representative of one old tenant on the whole property. Many of these tenants have gone out of the country, and in that way a sum not less than £30,000 of capital has been taken from the farming capital of this parish, and the land is farmed generally with half the means for the profitable occupation of it. Old tenants are often induced to give more for their farms than the real value of the subject; and, as an instance, I will give my own case. I have farmed on my own account since 1840. In 1843 I took a new lease at a rent put on by the landlord's valuator. The extent of the farm was then about 530 acres surface, but 150 acres of it were moor and waste, and the greater proportion undrained and wet. I reclaimed and drained the whole at my own cost, with the exception of £700 of Government money, for which I paid the full interest. I continued improving up to the end of my lease in the expectation that I was to get a renewal upon favourable terms; but from a change of management on the property, I had to give the rent asked by the factor, or leave what improvements I had made on the farm for another to reap. These improvements would amount to about £3000. The rent now promised by me is £150 a year more than I consider the farm worth; but to show the increased value to the landlord, my rent for nineteen years from Martinmas 1843 was £310, exclusive of drainage interest, and the rent for the new lease, exclusive of interest on buildings, is £710. In this lease I am allowed £1000 for buildings out of the rents as they become due. This sum I expended in the last year of the old lease; hence the proprietor had the benefit of it for nearly three years. In my neighbourhood we have merchants and others of large means competing for farms, and in several instances they have been successful. Generally they farm well, getting grieves trained by the best farmers in the district to conduct their operations, and with their lavish expenditure of money try to excel their more provident

William Alexander.

neighbours. I illustrate this by one instance. A merchant took a farm about 245 acres at a rent £300 above its real value. He has been farming extravagantly high, but he now finds he is losing money, and has made application for a reduction of rent. I think sequestrations should be made public. I am in favour of the entire abolition of the law of hypothec, and I would apply that to existing leases. A salesman in the cattle market told me yesterday that he had recently an order from a farmer to buy £300 worth of sheep. They were sent; and two or three days afterwards, they were sequestrated for the landlord's rent, and the salesman got only 5s. per pound of dividend. I would abolish urban hypothec as well as rural hypothec, for this reason, that it tends to foster improvident habits amongst the masses of large towns and cities, and to spread immorality. I think fore-rents on this class of property would be a means of rectifying the evil.

Monday, January 23, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR HOPE.
HON. MR CARNEGIE.	MR M'LAGAN.
MR FLEMING.	MR CURROR.

(52*b*.) GEORGE AULDJO JAMIESON, ESQ.

George Auldjo Jamieson.

To the Chairman.—I am a partner of the firm of Lindsay, Jamieson, and Haldane, accountants in Edinburgh. We have the charge, more or less directly, of several estates in various parts of Scotland, viz. in Lanark, Mid-Lothian, West Lothian, Perth, Forfar, Aberdeen, and Ross. The aggregate rental of the estates of which we have the management is about £100.000 a year. I think the effect of the abolition of the law of hypothec would be exceedingly unfavourable to almost all classes of agriculturists,—certainly to a very large proportion both of landlords and tenants. I am sure the tenants would suffer very largely. My opinion is founded on a pretty extensive knowledge of the tenantry of Scotland. I have also communicated with the various parties having the local charge of the estates under our management, and have obtained their views, which thoroughly coincide with my own. I think any alteration of the law would materially affect the present relations between landlord and tenant. There can be no doubt that it would be followed by the exaction of forehand rents, and the opinions I have got from all parts of the country are unanimous on that subject. In the south of Scotland, very usual terms of payment are Candlemas and Lammas after reaping. If the law were altered, these rents would have to be paid at Whitsunday and Martinmas preceding—possibly six months sooner. This would be equivalent to cutting short the period of credit by at least nine months; while in the north of Scotland, the period of entry and of credit being different, the result would be to curtail the credit from fifteen to eighteen months. This would tell very much on the smaller tenantry. They would practically to a large extent be excluded from offering altogether. They would not have the means to stock their farms in many cases. The result over the whole country would be to withdraw from the tenantry of Scotland about £7,500,000, that being in my opinion a moderate estimate of the amount of one year's rental, of which at present the landlords allow the tenants the use. The extent of farms, and the class of tenantry, varies very much in the different parts of the country; and I do not think the interests or opinions of farmers in the Lothians or Fife can be at all representative of those in the north, where arable farms are very much smaller. I have made up a note of tenants on estates under our charge in various parts of the country, and I find that, leaving crofts under £10 out of view, in Lanarkshire the average rental of farms on one estate was £150, 1s.;

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in West Lothian, on two estates, the average rental was respectively £402, 18s. 2d. and £319, 16s., or combining them, £356, 8s.; in Perthshire, on one estate, the average is £235, 17s. 1d.; in Forfarshire the average rental on two estates was respectively £130, 0s. 10d. and £141, 13s. 6d.; in Aberdeenshire, on six estates, the property of three separate proprietors, the average is £54, 15s. 10d., £65, 9s. 3d., £63, 8s., £64, 4s. 8d., £59, 9s. 6d., and £60; in Ross-shire, on one estate, the average is £79, 4s. 2d. I find from a return I have got, that the average rent of farms in West Lothian above £50, is £169, 9s.; but this ranges from an average of £336 in the parish of Dalmeny, to £90 in that of Whitburn. Including crofts, the contrast becomes even greater: in Aberdeen the average will then be £30; in Ross, £34; in Forfar, £115; in Perth, £160; in West Lothian, £300; and in Lanark, £76.

To Mr Fleming.—The highest rent in Aberdeenshire that goes into this average is about £500, representing a farm of between 500 and 600 acres. In West Lothian there are two farms above £1000, and half a dozen verging on £1000. I speak of West Lothian generally,—not to estates with which I have to do there.

To the Chairman.—I have no doubt the average rent payable by each tenant in East Lothian, Mid-Lothian, and several parts of Roxburgh and Berwick is above that in West Lothian; but I have no experience in these counties. The advantages derivable from the present law of hypothec are, I think—1*st*, the security it affords to those who invest in land or on the security of land; 2*d*, the means it affords to landlords of providing tenants with a part of the capital necessary for the working of their farms; 3*d*, the opportunity it thus affords to smaller farmers entering on the employment, and thus recruiting the ranks of agriculturists by persons of skill and practice; and 4*th*, the inducement and opportunity it affords for the granting of leases of the long duration of nineteen and twenty-one years. I don't think that the security which it gives to the landlord is given at the expense of the general dealers, any more than a bargain entered into in the ordinary affairs of life makes the party to it secure at the expense of others. I put the letting of land on the same footing as the lending of money. No person will lend money without taking such security as he considers necessary for the safety of his capital, and the regular payment of his interest; and if he takes such security as will render him a preferable creditor, the person who gives him that security is in the same position towards his other creditors, that a tenant is in towards his landlord. There is a very large number of persons who advance money on the security of land, and they are in the same position as the landlord—the position of being preferable creditors. The return derivable from land is very much less than the return derivable from money; and it has been getting less in proportion to the return from other investments—a circumstance which I attribute very much to the absolute security which the law of hypothec affords for the payment of rents. The fact that land continues a favourite security in the face of the return derived from it being so much smaller than the return obtained for money I attribute, to a great extent, to the security which the law of hypothec affords. If this security were abolished, parties lending money on land would require to provide for a contingency which is rarely provided for now, viz. the non-payment of rents by the failure of tenants. As a general rule, persons lending money on land now do not look to that contingency. I think, therefore, that any material change in the law of hypothec would have the immediate effect of reducing the fixed wealth of the country, and pressing heavily on landowners. Whatever tells on the value of land affects immensely the value of the fixed wealth of the country. I think a great deal of the value of a landowner's property is attributable to the certainty with which he may reckon, with fair management, on getting regular payment of his rents, under the operation of this law. Besides exacting forehand rents, if the law were abolished, I think it is exceedingly likely that landlords would have recourse to the security of caution, which I think would be a very bad system to introduce, and which I invariably set my face against wherever I can.

To Mr Fleming.—My objection to it is, that, if a man gets security from his neighbour, he must be prepared to go through the same operation himself, and in that way one would never know under what obligations for his neighbours an offerer for a farm might be.

To the Chairman.—The exacting of forehand rents, and other security perhaps besides, would certainly be disadvantageous to tenants, and especially to

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the smaller tenants, who, if not trusted by their landlords, would be trusted by nobody. They have not the facilities at their disposal which the larger tenants have. I am not aware of any disadvantage under which a large tenant can lie, under the present system; but certainly, if he were obliged to pay his rent forehand, he would just lose a year's interest on that amount; and if he is paying a large rent of £2000 a year, £100 a year of difference of rent will compensate for all the disadvantages that I am aware of. I have no doubt the effect of the abrogation of the law would be to reduce the value of land, and consequently to reduce rents. In my opinion, and in the opinion of all those whom I have consulted, the abolition of the law, and the introduction of fore-renting, would have the effect of very nearly driving the smaller tenants out of the market. In that remark I would include tenants paying from £30 to £100 a year. That applies largely to farms in Ross-shire; and I may read an extract from the letter of the factor on one estate there under our management:—'I have now had fully twenty years' experience of the working of the present law, and I have no hesitation in saying that it has operated beneficially for both landlord and tenant. It enables the landlord to let his farms to tenants of his own selection for the long period of nineteen years, and that without requiring any security beyond what the law affords. It also enables him to give a preference to a man with a moderate capital possessing a thorough knowledge of his profession over a man with capital and not possessed of the requisite knowledge, while at the same time he receives fair value for his land. If the law is abolished to the extent proposed, I am of opinion that the present system of postponed payments must be done away with. The landlord will then have to insist on either forehand rents, *i.e.* at Martinmas and Whitsunday—six and twelve months after entry, and before any crop is reaped—or else the tenant will have to afford satisfactory security. Such a change would effect a great alteration in the present class of tenants, at all events so far as the north is concerned. In general the tenants are not men of large capital, and many of them have recourse to bankers for occasional accommodation to meet their demands. If, therefore, the rent has to be paid in advance, instead of being postponed as at present until it is realized from the crop, the effect would probably be, that many of our largest tenants would be compelled to abandon their present possessions, and to take farms of a less size, while the majority of the smaller tenants would be quite unable to carry on. The consequence would be, that the latter would either have to become farm-servants,—for which, from their previous training, and being so long their own masters, they would not be very suitable,—or else be obliged to emigrate. In all probability they would have recourse to the latter alternative; and as the lands they occupy would have to be let as large farms, additional demand would be created for farm-servants, and thus the price of labour increased. A monopoly would be given to a limited number of tenants possessed of capital, while the place of the smaller class of tenants would be taken by retired shopkeepers and others with some capital, but thoroughly ignorant of agriculture.' A factor on large estates in Aberdeenshire writes:—'If the law is abolished, or indeed very much modified, all farms must be fore-rented. This of course will greatly reduce the competition for land, more especially among the smaller class of tenants, whose fifteen or eighteen months' credit of rent is very often their only capital; and to all tenants forehand payment, during a nineteen years' lease, will make the difference of nearly a year's rent. The agitation on this subject was first raised by one or two unfortunate cases in Ayrshire, and has since been supported, not so much by the farmers generally, as by the manure-dealers and implement-makers, and others selling to farmers, who do not of course like the landlord's preference; but these parties have their own protection in their own hands. Let them only sell for cash, and this would just have the same result in their trade, as fore-renting farms in farming—it would reduce the competition.' I am aware that provision has already been made in some cases for a possible change of the law,—I have done it myself, and it has been brought under my notice as having been done by others,—by stipulating that, if a change does take place, the rent shall be paid at the legal terms, which will mean Whitsunday and Martinmas after entry. I certainly do not concur in the view that the law of hypothec enables landlords to let their farms without careful inquiry as to the tenants. I know from my own experience, as well as that of others who have the management of land, that the inquiries which are made into the character and circumstances of tenants are very careful indeed. There is very rarely any change of tenants on the estates of

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which I have charge. I have no doubt that the effect of having backhand rents is, that they are higher than they would be if they were forehand. It is a mistake to suppose that the system of postponed rents is altogether a boon to the landlord. It is a very serious inconvenience to a proprietor, who has often to defray all the expenses of his estate and position for a year before he gets any rent. If, therefore, the effect of the system is to enhance the rents, it is an advantage which a proprietor pays for as well as the tenant for the use of the money. The present law is no doubt an advantage to crofters, but I think the croft system of agriculture is disappearing, and I do not think it is desirable to maintain it. I think the abolition of the law of hypothec would retard this change, because it would prevent that class of tenantry who have a pair-of-horse farms from being maintained, and there would be no stepping-stone between the farm-servant and the large tenant. In my experience the small class of tenants who are in a position above crofters, are a most industrious and useful class in every way. They are also most intelligent, and as a class they are prosperous. I have no doubt the abolition of the law would gradually extinguish that class of tenants, and it would press on them most severely. I think it is for the benefit of agriculture generally, that farms should vary in size, and that there should be some large farms for the expenditure of skill and capital, and some smaller farms. If the law were abolished, and these men driven out of the trade, these farms could only be cultivated by being thrown into large holdings, which would attract men of capital, and it would involve the disappearance of the present homesteads, and the erection of larger buildings, which would involve very large expenditure indeed, and it would press very hardly on the diminished rentals of the landlord. These small tenants expend, according to their means, a considerable sum on the improvement of their farms. I have often been surprised to hear of the large and liberal expenditure which they make on manures for their farms. I cannot speak of course as to details, but I know that it is the subject of general remark in the country. I am not favourable to the system of ameliorating leases, where the tenant expends money of his own on the faith of getting it back at the end of the lease; on the contrary, the efforts of my partners and myself have always been directed to doing away with that system, because it ties up the capital of the tenant, which we think ought to be at his disposal for the cultivation of his farm. Any material alteration in the law would, in my opinion, very much affect the duration of leases. I don't think landlords would be disposed to tie up their property for nineteen or twenty-one years, where they had inadequate security, or no security at all, against the contingencies which might affect their tenant. The difficulty of dissolving leases, and getting rid of really worthless tenants, is a great hardship on a landlord; and I know instances in which tenants utterly bankrupt have been enabled to preserve possession of their farms, to the great damage of the landlord. I remember one case in my own practice, in which a tenant was even sequestrated under the Bankrupt Statute, and he and his trustee, after litigating with the landlord until he (the landlord) became insane, put Mr Lindsay, when appointed curator, to the expense of £150 before we could get rid of him.

To Mr Fleming.—My recollection is that there was a clause in the lease irritating it.

To Mr Hope.—I rather think the rent was paid.

To the Chairman.—We very rarely advertise farms. In most of the estates under our charge, the farms are valued by some neutral person like Mr Dickson, and if the factor and he coincide, the farm is offered at their valuation to the sitting tenant, unless there is something which makes it desirable to remove him. In very rare cases has there been any change. Sequestrations are almost unknown on most of the estates under our management. I have made some inquiries on the subject, and to take one case, Mr C. Chalmers, who has had considerable experience in managing landed properties in Aberdeenshire and Kincardineshire for upwards of forty years, 'always regards sequestration as a proceeding of very unusual occurrence, and knows that it has been very rarely in the course of his experience that he has had to resort to it.' I have obtained a return of the number of sequestrations used on a large estate in Aberdeen for the last five years. The rental is about £33,000 a year, and there are about 1200 tenants. During these five years, there were in 1860, one for £90; in 1861, none; in 1862, one for £11, 12s., and one for £98; in 1863, none; in 1864, five for £76, 10s.; in all, eight for £276, 2s., being an annual average of 1·6 in num-

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ber, and £55, 4s. 5d. in annual amount. In not one of these cases were the proceedings followed out to sale. These five sequestrations in 1864 were taken against small tenants who had been for many years in arrear, just to get rid of them. They were for £40, £8, £9, £5, 10s., and £14 respectively. I am sure that other parties dealing with these tenants could not have been great losers, because they were quite notoriously bankrupt, and the sequestrations were not resorted to till forbearance had been stretched beyond prudence. The law of hypothec enables a landlord to grant forbearance to tenants without risking his money. I have also obtained a return of the whole sequestrations used during the same period in the county of Linlithgow, and I find the following results:—In 1860, number of sequestrations 4, amount £836, 5s. 11d.; in 1861, 2, £148, 9s.; 1862, 8, £1320, 1s. 10d.; 1863, 15, £3139, 6s. 1d.; and in 1864, 5, £492, 10s.—Total sequestrations 34, amount £5936, 12s. 10d. The valuation roll of the county for 1864 is £163,464. In this list I find the same names recurring year after year, so that in reality, although there were thirty-four sequestrations, there were only nineteen parties sequestrated.

To Mr Hope.—The average amount sequestrated for in each year was £1187, the valuation of the county being £163,000. In two of the nineteen cases, the sequestrations were taken at my own instance; and the rental we have charge of in that county is about £10,000 a year.

To the Chairman.—As to following grain in the hands of a *bonâ fide* purchaser, I never heard of an instance of it, and I have been unable to find any one who ever did. It is a thing quite unknown in practice, and I don't see the least objection to its being abrogated. I have no doubt that the existence of that part of the law has tended to prevent collusive sales, but I find unanimous approbation of the proposal to abrogate that part of the law. I think it would be sufficient to make a sale by sample have the same privilege as a sale by bulk now has. I would do away with any right on the part of a landlord, who has not used sequestration, to follow grain or any produce of the farm sold by sample, which had been paid for and was actually delivered; but I would preserve the right of the landlord preferably to all grain on the farm not delivered. This would merely put a purchaser in the not unfavourable position of taking the risk of paying without delivery. *Q.* Suppose the sale took place in the stackyard, would you require intimation to be given to the landlord before the sale took place?—*A.* I had not thought of that. In general practice, I think it would be quite enough if the landlord retained his right to secure himself while the grain remained on the farm. I also think that sequestrations should be published. I think a great deal of the complaint against the law has arisen from the comparative secrecy which may be maintained as to sequestrations for rent. No doubt the publication would add to the harshness of the proceeding, but I don't think sequestration ought to be deprived of its harshness. The law provides no means for the custody of sequestrated effects, or the management of the farm pending sequestration. I would make it imperative on the sheriff, after the publication of a sequestration on the motion of a landlord, the tenant, or of any creditor, to appoint a judicial manager to look after the sequestrated effects, and to manage the farm. A very great loss, indeed, arises from the recklessness or the apathy of tenants who are sequestrated, and the public ought to be protected against the loss or abuse of articles and property which the law takes into its custody. I would give the tenant reasonable time—say fourteen days—to clear off the sequestration. I would make the fact of a sequestration not recalled for fourteen days, occurring twice in the currency of a lease, a statutory irritancy in all leases sufficient to entitle the landlord to obtain decree of removing at the first term of entry which shall happen six months after the use of the second sequestration. The first sequestration might arise from accidental circumstances, and it would perhaps be too great a weapon in the hands of the landlord to give him power to break the lease at once upon the first sequestration.

To Mr Hope.—If the law were abolished, I think the smaller class of tenants would be excluded to a great extent from offering. If a year's rent is taken from them, they would find it matter of extreme difficulty to stock their farms. At present a tenant with small capital gets the benefit of a year's rent for the management of his farm. I don't think these small tenants have as much capital in proportion as the larger ones. *Q.* In arriving at seven and a half millions as the sum which you think tenants have of the landlord's capital throughout

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Scotland, did you make allowance for the farms that are fore-rented?—*A.* I took it roughly. I got from the almanac the valuations of the different counties, exclusive of burghs and railways; but I find that in Kinross, the valuation of which is £58,000, and in Lanark, where the valuation is £1,100,000, railways and canals seem to have been included. The gross amount of the rental of Scotland is £9,481,328, off which I took for railways and canals in these two counties, and to meet the forehand payment of rents, £2,000,000, leaving £7,500,000. It was a very rough calculation, but I know that forehand rents are exceedingly rare. Sheep-farms are mostly fore-rented, but they do not form a very considerable part of the rental. I do not know the practice as to farms in Roxburghshire and Dumfriesshire. If the law were abolished, tenants would lose on an average a year's interest by fore-renting. *Q.* Don't you think they pay anything for the use of this money for a year?—*A.* Indirectly the influence of the law is to enhance rents, and thereby no doubt they will. If it reduced rents, tenants would benefit to the extent to which they were reduced. Both landlords and tenants have a direct pecuniary interest in maintaining the law. *Q.* In what way has the tenant that interest?—*A.* Because he gets the use of the landlord's money. *Q.* But those tenants that have money?—*A.* You are speaking of classes of tenants as distinguished from the general bulk; my remarks apply to tenants as a class, and with reference to them I adhere to what I have said. The landlord derives this benefit, that it secures his rent. It also enables him to select deserving tenants with confidence, and it creates confidence in the mutual dealings between landlord and tenant, which I think exceedingly desirable. I don't think landlords are entitled to any security beyond what other capitalists possess, but no other capitalist would lend his capital without security. *Q.* Land is indestructible?—*A.* So is gold, practically. *Q.* But a tenant can run away with the gold, but scarcely with the land?—*A.* I don't see why a man with a farm worth £1000 should not make himself equally secure as the man who has 1000 sovereigns. The latter won't lend them to anybody unless he is sure of getting them back again. A tenant may destroy the land, and he may be unable to pay his rent. The value of land has certainly risen very much within twenty or thirty years, and a man who now invests in land will only get 3 per cent. for his money. *Q.* You think the abolition of the law would greatly reduce rents?—*A.* It is difficult to speculate on what the effect may be, because there might be remedial measures which we cannot anticipate, but the direct influence of the abrogation of the law would unquestionably be to affect the value of land. *Q.* And yet you have had very few sequestrations on the estates under your charge, and in Linlithgow they have only amounted to 10s. or 15s. per £100?—*A.* About that. *Q.* Do you think that landlords, in place of suffering this very small loss, would let their farms to men at a greatly reduced rent, simply because they were able to fore-rent them?—*A.* But I look on sequestration as the exceedingly rare consequence of the law, as by no means marking the influence of the law itself. I should never take the number of sequestrations as the measure of the benefit derived from the law. I think sequestration is a thing to which a man in the management of land resorts only in the very last extremity. Rents are got without putting the law in force, but it is known that it could be put in force. I am against granting ameliorating leases to tenants, but my remarks on that subject applied to a system well known in the north of Scotland, where houses on the farms are really the property of the tenant. In a great part of Aberdeenshire, till recently the houses on the farm were the property of the tenant. He built them, and at the end of the lease he had a claim on the landlord for repetition of the value. That is a system we have done away with wherever we could. I think the effect of the abolition of the law would be to prevent landlords from granting leases for nineteen or twenty-one years. *Q.* If they could obtain more rent for their land under leases than they could get from yearly tenants, do you think they would not grant leases?—*A.* There is no saying to what that might tempt them, but it would make land no longer a certain investment, but a speculative one; because you would be trusting no longer to the security which the law gives, but speculating upon the substantiality and credit of the individual tenant. *Q.* You stated that persons succeeding to entailed estates had considerable difficulty in raising money when they succeed to their property, they not receiving their rents for eighteen months; would that not be an argument for having the rents sooner paid?—*A.* I made the observation as showing that the advantage derived from the postponement of rents was not all on the side of the

tenant, and that the landlord was put to some inconvenience to find the money to advance to the tenant.

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To Mr Fleming.—I have come into personal contact with tenants in the north of Scotland to a considerable extent. I believe that, if the law of hypothec were abolished, the small class of tenants would to a large extent emigrate; and that would be a very great loss indeed to this country. I don't think the increased rent which proprietors get under the present law is more than a proper compensation for the time that they lie out of their money. The effect of throwing several small holdings into one in Aberdeenshire would be to cause a large expenditure on buildings, and I don't know where the capitalist tenants would come from to occupy these larger farms. At present they certainly do not exist. There would no doubt be an influx of persons willing to embark in agriculture on that scale, but where they would come from I am unable to see. In the north of Scotland they do not exist at present. I do not think there is anything objectionable in the principle of the law—nothing that I can discern to distinguish it from a loan of money on security. I see no greater hardship in its application than in that of the ordinary law of security, where the secured creditor is paid in full, and those who have traded with the bankrupt get only a dividend. I do not think that any injustice is done through the operation of the law to the manure merchant and others who supply goods to the farmer. The landlord stepping in and getting his rent paid in full, while other creditors get little or nothing, is no greater hardship than in the ordinary case where, if a landed proprietor meets with misfortunes, those creditors who are secured on his estate carry off everything. *Q.* Do you draw no distinction between the two cases on the ground that the one is matter of contract, while in the other case the law provides the security?—*A.* None further than this, that the law provides a beneficial mode of enabling landlord and tenant to deal together with confidence. Though this may be at the expense of the neutral creditors, these parties have even more warning under the law of hypothec than the neutral creditors of a landed proprietor whose estate is burdened; because those who deal with the tenant know of the existence of the law of hypothec, whereas those who deal with the landed proprietor rarely know what may be the burdens upon his estate.

To Sir W. Gibson Craig.—I have no doubt that sequestrations would be more frequent if the law of hypothec were abolished; because, assuming that the landlord would be entitled to some preference, as it is to be cut as short as possible, he would be driven to make his right available at once. For the landlord to be absolutely secure, he would require to get his rent in advance. I understood that those who proposed to abolish the law meant that the landlord should still be a preferable creditor for the half-year's rent until it became due. If he is not, then there would be no room for sequestration, because he would never be *in titulo* to sequestrate. His rent would never become due till it had reached the point at which it became an ordinary debt. In that case I should require payment in advance from the tenants on the estates under our charge. That would alter the present relation between landlord and tenant most materially. The landlord would then deal with his tenant in a purely commercial view, and trust him only as far as the ordinary creditors of a man trust him—as far as they can see, and no further; whereas at present the tenant enters on his farm, and is in possession for a long time before any rent is asked, and the relation between them is established for the long period of nineteen years, just because it is made free from the contingencies which affect ordinary trade. *Q.* Is not the lease also generally so far a one-sided bargain, that the landlord gets no benefit from any rise of prices or from any greater profit to be got from the farm, while, on the other hand, if times get bad, he is obliged to give a reduction of rent occasionally?—*A.* No doubt of it. But generally I think leases are very well devised between landlord and tenant, and generally the fluctuations of one period compensate for those of another. The system of agriculture is undergoing a very considerable modification in many parts of the country by grain-crops giving way very much to feeding. In Aberdeenshire sheep-feeding is, I understand, becoming very common, where formerly it was all but unknown. That cannot be introduced on carse land, and there the fall of prices which is taking place will tell very seriously to the detriment of the landlord. That is a reason why he should be made secure in his rent.

To Mr M'Lagan.—I cannot say I know of my own knowledge that bankers

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object to give credit to farmers on account of the law of hypothec, but I have been informed that that is the case to a limited extent. In one of the Linlithgow sequestrations, I know that there were accommodation bills. That seems to show that bankers do give credit to tenants. The small number of sequestrations in that county may arise from the indulgence which the landlords give to their tenants, and which they would not have given if there had been no law of hypothec. The effect of the law is to increase confidence between landlord and tenant.

To Mr Hope.—The indulgence granted by landlords is rarely at the risk of the other creditors. The landlord will not speculate upon his tenant going on, unless he sees a reasonable prospect of his doing well. Generally, if he were to bring him down at the first moment, all parties would be greater sufferers, in my experience. If the difficulties of the tenant became chronic, he ought to be removed as soon as possible. But if they are merely temporary, the indulgence which he gets is often valuable, to enable him to retrieve his position. I have known that frequently happen. I think the abolition of the law would have a tendency to throw the land into large farms. But on this point I speak more from the testimony of others, who have had long experience in the management of land. The cases, in which I have made stipulations for the payment of fore-rent in the event of the law being abolished, are in Forfarshire and Aberdeenshire. The idea was suggested to me by another man of business whom I found doing it. I dare say it would be a severe pull upon these tenants if they had to pay fore-rent.

To Mr Fleming.—If the law were abolished, I have no doubt we would require forehand payment of rent—at least to the extent of the legal terms. But I would advise landlords to run considerable risk before asking payment of the rent in advance. If the law gave us no other protection, we would adapt ourselves to the circumstances; but clearly the present postponement of rent would be done away with at the earliest opportunity. I should approve of abolishing the landlord's right to follow grain, even where it was sold privately in the stackyard, if the contract was completed by delivery, and without fraud. I would not protect such a sale taking place after sequestration, though the purchaser did not know of the sequestration, if sequestrations were published.

To the Chairman.—I am aware that under the Mercantile Law Amendment Act a trader may dispose of the goods in his shop, and yet his ostensible property not be diminished. The ordinary creditors of such a trader might suffer a greater loss than the general creditors of a tenant do from the landlord's hypothec. The trader's whole property might be sold, and under that Act the sale would be *bonâ fide*.

To Sir W. Gibson Craig.—I think the urban hypothec rests on the same foundation as the agricultural hypothec. I can see no reason why it should be retained if the agricultural hypothec were abolished. Indeed I see no ground on which any hypothec can be allowed to subsist, even that of a law-agent over title-deeds. I think the abolition of the urban hypothec would press very severely on poor people; and security would have to be resorted to more frequently than it now is for payment of house rents.

(53.) Mr CHARLES RINTOUL.

Charles Rintoul.

To the Chairman.—I am tenant of East Craigie, in the parish of Cramond and county of Linlithgow. I have been fourteen years a farmer,—always in the same farm. The extent of the farm is 230 imperial acres, and the rent averages £620 a year. My entry is at Martinmas to the whole, and the rent is payable at Candlemas and Lammas following. I have in two instances suffered from the law of hypothec. In the first, I became surety for a farmer for some guano which was applied to his farm. He came down, and I got 1s. 6d. per pound. The other instance was that of a neighbour, to whom I gave seed to sow his farm, and oats for his horses. He also came down, and I got 6d. per pound. In both of these instances the landlord was paid in full. I don't think I acted incautiously in these cases. I thought the men were good for the money, holding the farms which they did. These are the only cases in which I have experienced any personal loss. I have not, so far as I am aware, sustained any disadvantage indirectly from it. If the law were abolished, the question of forehand rents would be a matter of bargain between landlord and tenant; but I don't see why

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it should be followed by fore-renting. I think I should not be called on to pay rent till I have reaped a crop. It would be no disadvantage to me to pay forehand rent if I had the money, and I would not take the land unless I had the money. I don't consider forehand rents a proper mercantile transaction. The landlord has more guarantee than any other person in the case of a tenant taking the land, because the tenant must lay out a great deal of capital to begin with. My opinion is that fore-renting is not fair; but if that was the bargain, tenants would just take the land as they had capital to farm it. I am in favour of the total abolition of the law. It worked well and fairly under the protection of the Corn-laws, because at that time the tenant was equally protected with his landlord; and when there was a short crop or bad seasons, the prices rose in proportion, and he had a fair return for his labour and expenditure of capital. But the table has turned against the tenant, and remains as it was with the landlord—indeed I may say more in his favour than ever. The tenant has now all the world against him in growing grain, and it can be sent into market from many places cheaper than I can deliver it from my own carts in Edinburgh, which is only five miles distant. He has also an increasing advance in the price of labour and tear and wear to contend with. The landlord, on the other hand, has men from all parts of the kingdom, and from every trade and position of life, to compete for his land, if they have just a little to begin with. A farm will get a man credit for manure and other necessaries to grow a crop with from the public, which, as soon as applied to the land, become the property of the landlord, as a guarantee for the rent, whether such articles have been paid for or not. I cannot see, therefore, how free trade and hypothec can flourish together. We do not desire to return to protection again, but would have the principle carried out, and have free trade in the land which produces the grain. There is now plenty of money in the country to farm all the land in it. Capital is increasing very fast, but the soil grows very slow. I have therefore no fear of any of it being neglected. I think it unfair that one class should be protected by law from loss at the expense of other classes. They are more protected than any other class I know of already. At the worst, although the law was abolished, and a tenant failing, they could only lose a portion of a year's rent, which is only equivalent to a part of their interest. They could not lose the land, whereas the tradesman or manure merchant may at present lose both capital and interest. If the tenant did not conform to the lease, it should be in the power of the landlord to take the land again. I think it is quite easy for the landlord to exact the conditions of the lease. The law enables landlords to take the highest bidder for the land, and yet be safe, even though it should be much above its value, and to encourage parties to take more land than they have capital to farm properly, which is against the improvement of the soil. It also acts injuriously against those tenants who have, without any assistance from their landlords, improved their farms, by draining and other permanent improvements, when they come to the end of their lease, and have their land in good order.

To Sir W. Gibson Craig.—I think it would be unfair for landlords to ask fore-rents. They can get security for stocking the farm properly. I don't think they would be justified in asking security for a nineteen years' lease. If they have power to turn out a tenant when he fails to pay his rent, that is sufficient security. A man should not take a farm unless he has cash to work it properly, or can find security that he will do so.

To Mr M'Lagan.—I think the tenant should not pay rent till he has reaped a crop, because he has to pay out a great deal to produce a crop, and derives no benefit himself till he reaps it. *Q.* Would you say that the manure merchant should not be paid for his manure till the tenant has derived benefit from it?—*A.* It is a matter of bargain; but at present, whenever the manure comes on the land, it is the landlord's, whether it is paid for or not. I would give the landlord security for the first rent, but not for all the rents of the lease.

To Mr Hope.—I have tile-drained the farm at my own expense, which has cost me upwards of £500. I have erected buildings, and done repairs to the extent of £200; also put down a fixed engine and threshing machinery, to the value of £250. The first year of my lease I paid £827 for manure, and since then have averaged about £500 every year, besides consuming the turnip-crop on the farm. When I buy manures, I have the option of taking them at a cash or a credit price. I find it for my advantage to pay cash. I would take a farm just in the same way. If I had capital I would pay fore-rent,

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which of course would be less than postponed rent. At present landlords charge a very heavy rate of interest to tenants for postponed payments, much heavier than they could borrow the money at. It costs me fifteen or sixteenpence a quarter to send wheat to Edinburgh. That includes two tolls, custom, men's wages, horse hire, etc. Grain can be sent from the continent fully as cheap as I can cart it, and from America much cheaper than some farmers can send it to the market. I would allow the landlord to turn out a tenant when he could not pay his rent. He should make his own terms with a tenant, whether he is to be paid cash or get credit. A tenant can get a loan of money on more advantageous terms from the public than from his landlord. At present the credit rent is always hanging over his head. If it was made a cash rent, he would be more likely to weather the storm when grain gets below the cost of production. In the two cases where I lost by the law of hypothec, the landlord was paid in full, and the other creditors suffered greatly. I have lost by selling to potato merchants, and in one case I got no dividend at all.

To the Chairman.—I would not extend the abolition of the law to existing leases.

To Mr Carnegie.—Edinburgh is my market. I don't sell grain anywhere else.

To Mr Fleming.—I know a case in our county where a tenant had his land in high condition at the end of his lease and suffered thereby, because he would not come up to the terms insisted on by the landlord. It was offered to the public, and was let at what shortly proved to be much above its value. The person who got it did nothing for it, took all he could get out of it, and gave it up in about six years in very bad condition. I paid for labour in 1853, £434; and in 1863, £623. That shows the advance in labour within ten years.

(54.) Mr PETER CHRISTIE.

Peter Christie.

To the Chairman.—I am tenant of Scotscraig Mains, in Fife. I have been engaged in the practice of agriculture since 1829, entirely in Fife. My farm extends to 500 acres, and the rent is about £1000. The term of entry is Martinmas for the whole, and the first rent is payable eighteen months after entry. I think the payment should be the first Whitsunday after entry. The present system puts us in a false position, because I consider we are manufacturers of grain, and that we should pay for the possession, not for the crop. I have experienced inconvenience from the law of hypothec as a guano-seller. I am not now a guano-seller. As a farmer I have not experienced any disadvantage from it. I cannot say that I have experienced any advantage from it. When guano was first introduced I became a merchant, and bought cargoes, some of which I retailed to farmers, and others I sold wholesale; and I lost from selling to farmers who had taken their land at too high a rate. I was engaged in that trade for a few years. I soon tired of the retail business, and only sold two or three cargoes in that way. The loss which I sustained was small. I don't complain of the amount of the loss; the trade paid me well in spite of the loss. I should not think that it is a very profitable trade now. When I began it was newly introduced, and I bought Ichaboe guano as low as £6 a ton in cargoes, and sold it at £7 and £8. When the speculative part of the trade was over, I dropped it. My loss was quite a trifle to the profits. *Q.* Then it is not from personal loss but from general principle that you object to the law?—*A.* Distinctly. I have also lost in supplying a farmer with oats.

To Mr Hope.—I got no dividend in that case.

To the Chairman.—I have had dealings with bakers and millers. I only once sustained loss by a baker. The only instances in which I have lost as a farmer dealing with farmers, were in the sale of guano and supplying a neighbour with oats. I am in favour of materially modifying the law of hypothec, because I don't think it is of much importance to the proprietor. It is of very doubtful advantage to the tenant, and it puts dealers in seeds, etc., in a bad position. I would give the landlord forty to sixty days after the term for securing his rent. I would allow him to sequestrate, but I would oblige him to carry it through in a limited time. Sequestrations should be made public. I would give the landlord from forty to sixty days after each term's rent as it became due, to secure the half-year's rent; and I would give him a hypothec over the whole stock and crop on the farm, but only for the rent past due. I am opposed to the landlord's power of following

grain after it has been sold. Sale by sample should be made equivalent to sale in bulk in public market. I would also allow the tenant to sell privately in his own stackyard, but not within the forty to sixty days, without intimation to the landlord. That is all the change in the law which I suggest, and I think that would work beneficially for landlords and tenants. Peter Christie.

To Mr Fleming.—Suppose the tenant were becoming bankrupt early in the spring after the crop was sown, the proprietor would have to take his chance with the other creditors. I would give him no preference over the manure merchant, whose manure has gone to raise that crop.

To Mr Hope.—I have known tilemakers lose to a considerable extent by farmers. Some of them, I am satisfied, got no dividends. I expend about £750 on artificial manures, feeding-stuffs, and tradesmen's accounts. My rent is about one-fifth of the stocking on my farm. When I entered, the farm had been valued, and I got it at the valuation. It was in a very bad state.

To Mr Carnegie.—I sell my grain principally in Cupar, and occasionally in Dundee. Cupar is an attempted stock market, but there is no great amount of business done. The sales are not registered. I would not apply the changes which I have suggested in the law to existing leases.

To the Chairman.—The terms of entry which I have mentioned are the usual terms of entry in Fife. I think the tenants in Fife generally would be willing to pay fore-rent. I think most of them could do so.

To Mr Hope.—Farming from 1852 to 1860 was generally profitable,—some years particularly so, from the failure of potatoes in England, the crop having stood good in Fife. Since then farming has not been profitable. The law of hypothec tends to raise the rent of land, but it is not the law of hypothec alone which raises rents unduly.

To the Chairman.—It is the foolishness of those who take land without knowing the value of it, or over-estimating its value.

To Mr Hope.—I think landlords generally take the highest offer.

To Mr Fleming.—I don't think the abolition of the law would reduce rents beyond the mere interest of the money. Suppose I take a farm rented at present at £1000, I would be entitled to it at £950 if I fore-rented it, and the proprietor would be no loser. That is just a deduction of the interest at 5 per cent. I would have no fear of land always letting at the utmost of its value. From various causes, I think the competition would continue as great as it is at present. I don't think the abolition of the law would have the effect of dispossessing small tenants. There are a great many small tenants in Fife. I have no fear that these tenants would not be able to pay fore-rents. If the law were done away with, there would be less occasion for banks sending circulars to their country agents warning them to beware of transactions with agriculturists. Banks would then discount bills more freely to tenants. I have seen such circulars in 1859, 1862 and 1863. Bad crops and low prices, along with the law of hypothec, made bankers much more timid. I don't think the status of farmers is improving.

To the Chairman.—They have improved during the last fifty years. One cause of the high rents got for land is, that the agricultural community increases in the same ratio as the other inhabitants, and there is a much larger proportion of farmers' sons who, from being brought up in the country, naturally would take to farming, than of the sons of persons engaged in other business, who generally follow that of their fathers.

To Mr Fleming.—Among the competitors for farms in Fife there are people from other trades and professions, but not to a large extent.

To the Chairman.—In many cases I know that farmers lost as much as their whole rent by the bad year in 1862, and yet they were able to go on. That verifies my impression that they could pay fore-rent. My belief is that it is only in a limited part of Scotland that agriculture is particularly depressed. The stock-farming was never more prosperous.

(55.) Mr JAMES LOUDON GORDON.

To the Chairman.—I am town-clerk of Brechin, and one of the agents for the Union Bank there. I am also secretary of the Angus Agricultural Association. There has been a very great deal of agricultural embarrassment in the district James Loudon Gordon.

James Loudon Gordon.

during the last two years. The liabilities of tenant-farmers, who have failed, amount, in the aggregate, to about £45,000 or £50,000 within a radius of not more than three miles of Brechin. That amount was spread over seven or eight cases. The rents varied from £700 to £200, and the dividends from 10d. to 5s.

To Sir W. Gibson Craig.—These were all purely agricultural losses except one or two; and their farming transactions were as large as their other dealings, and these were dealings in horses and cattle.

To the Chairman.—One individual had been ten years in his farm. As to the others, about three years was the shortest time they had been in their farms. None of them had been practical farmers. I suppose their failure was owing to want of knowledge of farming, to undertaking cautionary obligations, and chiefly to starting without capital.

To Mr Hope.—They improved their farms very largely. They expended very large sums. One of them expended a sum, which is represented by a surplus rent for nine years of his lease yet to run of £240. That is the additional rent since got for the farm.

To the Chairman.—I suppose they got the money which they laid out partly from banks and partly from private individuals. There are some very hard cases in the neighbourhood of Brechin of parties who had lent these farmers sums of £200 and £300. Banks do not give advances to farmers without a very unusual amount of security. The banks with us have refused to give any advance unless with a larger number of names than usual; and we find from experience that, when a party gets three or four names to a credit, he is under an obligation to give his name to these parties in a similar way, and the result is that they get involved through each other. As to the amount which I have given, I should explain that there is a great deal of cross-ranking, and that each estate ranks on its neighbour. They don't represent separate debts. I attribute the state of matters referred to, to some extent, to the law of hypothec, the backhanded system of rents inducing men without capital to offer, and this law protecting landlords in accepting offers from such men. One of the parties mentioned was notoriously bankrupt when he took his farm, or at least under very heavy obligations. His estate was not sequestrated; it was wound up under a private trust. Another stated that he started with a capital of £100, instead of £3000 or £4000; but, from what I understand, I think he cannot have had even that. Another of them states that he started with £300, instead of £2000. I was trustee on that estate, and I don't think he had that amount when he took the farm. I don't know whether the landlords, or those acting for them, were aware of their position, but there should not have been the least difficulty,—certainly not in the three cases which I have last referred to. Their circumstances were well known. I cannot account for such tenants being taken, except from the law of hypothec. In all the cases I have mentioned the landlord has suffered no loss; and in two of them, he not only got his full rent, but an improved farm, represented by large additional rentals—in one case amounting, if capitalised, to nearly £2000, and in the other to about £1500.

To Mr Hope.—The landlords drew these increased rents.

To the Chairman.—It was notorious in the district that two or three of these men had no means,—at least I knew it perfectly, and I think it was generally known. If any inquiry had been made, I believe the landlords could not have failed to discover it. General traders were extensive losers in these cases. In one case, the manure and seed merchant's claims amounted to about £900, and the dividend was 3s. or 3s. 3d. The manure merchants were not in the district. They were Aberdeen men, and I suppose they would trust them because they had large and good farms. A tenant gets credit from the very fact that he has been selected by a landlord, and it seems fair that the general body of creditors should be entitled to rely upon the choice made by a landlord. At all events that was the way in which a great many people were led to trust the persons whom I have been referring to. *Q.* Are landlords generally not sufficiently cautious as to the persons whom they take as tenants?—*A.* I should not like to express an opinion on that. I prefer rather to state facts that have come within my own knowledge. I merely draw an inference from the cases I have mentioned, and there it is very obvious that either they or their factors could not have made inquiry without arriving at a certain result. Guano-dealers protect themselves by adding to the price of their guano, in order to meet their risks; bankers get additional security, and general creditors rely on the selection of the landlord.

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In one of the cases which I mentioned, a man who had been a servant all his days advanced the tenant £270 shortly after he entered, under the impression that, having got a good farm, he could run no risk. There are two or three parties in the same position, having advanced money to that tenant. *Q.* Then it is not the opinion of the general public that landlords do not make inquiry, because they lend their money on the faith that the landlords have made inquiry? —*A.* I think the more intelligent public, such as guano merchants, bankers, and others, do not rely upon that. I am talking of the class of persons who have a few hundreds to lend. They have suffered severely by these failures. I would rather state facts than opinions; but, from the cases which have come to my knowledge, I think there ought to be some modification of the present law. I think total abolition would be rather too sweeping a change, although the speech of Mr Dunlop, M.P. for Greenock, reported to-day, inclines me to this. From what I have stated, it is evident that general creditors have sustained great hardship from some of those failures occurring shortly after the tenants entered the farms. These farms were improved at the expense of the general creditors, and if they had been entitled to get the value of these permanent improvements, made by their own money, it would have lessened their loss very considerably. Either the legal and conventional irritancies should be done away with, or creditors should be looked upon very much in the light of onerous assignees, and entitled to the advantage of any permanent improvements made by the tenant. In one of the cases the proprietor not only got his whole rent, but also what was equal to about £1200 or £1500 in his pocket besides. In the other case the value of the additional rent which the landlord got was about £1800 or £2000, all or chiefly in consequence of the outlay at the expense of these creditors. I know that in one of these cases one or two good tenants offered for the farm. I cannot say whether there was much difference between their offers and the offer which was accepted. I presume no sufficient inquiry was made. At the time that one of these tenants entered on his farm, his obligations amounted to about £4000, and the amount of his ultimate failure was £6000 or £7000. His liabilities, before he entered the farm, were incurred as a cattle-dealer; but that could have been ascertained if inquiry had been made. In another of the cases, part of the loss was occasioned by the party having gone to farm in England, and by the law of distress having been brought to bear on him there.

To Mr Fleming.—In one of the cases I have mentioned, there was a considerable number of bills. I don't suppose the bankers were losers, but it was well known that the tenant was in difficulties, and at the time he took the farm his liabilities were lying in a bank at Brechin.

By Sir W. Gibson Craig.—I believe that bank gave him further accommodation, but I cannot speak to that.

To Mr Fleming.—I should have looked at the other names on a bill before I had discounted to him. If the law were abolished I think farmers would get money on easier terms from bankers. By easier terms I mean with fewer names. A bank-agent in Brechin, who has been a good deal involved in these cases, told me on Saturday, that his head-office had positively refused to give a cash-credit to a farmer where there were none but farmers' names on it. I would discount a bill at present bearing the signatures of two farmers, if I believed they were in good credit. *Q.* Would you do anything more supposing the law were abolished? —*A.* Nothing more. *Q.* Although the law were abolished, you would not discount a bill with the name of a man whom you believed to be unable to pay it? —*A.* Certainly not, unless the other name was undoubted. *Q.* Then how would the farmer derive an advantage from its abolition in regard to advances from bankers?—*A.* He would be saved the necessity of having additional names; and one result would be that a different class of men would get farms. At present we like three or four names for any advances given to farmers. If the law were abolished, I believe that a couple of names in fair credit would be sufficient, just as in ordinary mercantile transactions. *Q.* But you would do that now?—*A.* Yes, but we are more chary than we would be. I would have no objection to the irritancies continuing in leases; but I see nothing objectionable in abolishing even a conventional irritancy in such cases as I have mentioned. It would be something like a life policy. In the event of suicide the policy becomes void; but, if it has been onerously assigned, it is good, and the company is liable. I should like to see creditors such as those I have referred to regarded as onerous assignees, so as to get the benefit of any permanent improvements made with

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their own money,—introducing the principle of ameliorations so far, or tenant right. I should hardly say that the cases I have mentioned are a fair specimen of the state of matters in Forfarshire. I should say they are not. There are many estates in the neighbourhood of Brechin which are not in that position. I think the landlords or their agents could not have made sufficient inquiry, otherwise these men could not have got into these farms. It would also appear that whoever may be selected by the landlords for their tenants, they (the landlords) seem to get out without any loss, and in several cases with great gain. I think a farmer should have sufficient capital to stock and cultivate his farm without relying upon aid from extraneous sources. They would then not require banking facilities to any great extent. Suppose fore-renting were introduced, a tenant could borrow from a bank on much more satisfactory terms than he can do from his landlord. I think the law of hypothec increases rents to an extent altogether incommensurate with the advantage which the tenant derives. I should consider it much better that a tenant should get an advance from a bank or a private friend than from his landlord; and there would be this advantage to the general creditors, that in the case of the tenant's bankruptcy the banker would only rank with them.

To Mr Hope.—The banks at Brechin have considerable dealings with farmers. Cash-accounts are a very common thing even with good tenants.

To Mr Carnegie.—The bank-agent to whom I have referred told me that his head-office refused to grant a cash-credit to a farmer, if there were none but farmers' names as security. I think that restriction would certainly be removed if there was a change in the law. Sequestrations should be made public.

To the Chairman.—One of the most intelligent factors on one of the largest estates in our neighbourhood told me the other day, that he was satisfied he could manage the estate equally well supposing the law were abolished.

Tuesday, January 24, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR FLEMING.
HON. MR CARNEGIE.	MR HOPE.
MR MURRAY.	MR M'LAGAN.

(56.) MR WALTER RUTHERFORD.

Walter Rutherford.

To the Chairman.—I have a small property, called Ancrum Craig, in the county of Roxburgh. I am also a farmer and manure merchant. The name of my farm is Crailing Tofts. I farmed my own estate for fourteen years till a few years ago, when I let it to my brother. The extent of my farm is 333 imperial acres, and the rent £630; term of entry Whitsunday and separation of crop; first rent payable fifteen months after Whitsunday. There are three terms of payment in the county of Roxburgh, viz. fore-rent, half-back, and full-back. These are all applicable to arable farms. Mine is entirely an arable farm. As a manure merchant, I have dealings to the extent of £8000 a year. That is in manure and feeding-stuffs. My receipts and payments, farm and altogether, are about £12,000 a year. As a farmer, I have experienced no direct inconvenience from the law of hypothec. I don't think I have experienced any advantage from it. If there had been no such law, I don't think I would have been paying such a big rent as I do. The law increases rents in this way, that it enables the landlord to take a tenant with very insufficient capital, or of no experience whatever,—a merchant or a military man, if he has got money, and that increases the competition, so that we have to pay higher rents. These people offer higher rents than practical farmers would give. That has an influence on the rents of farms which are not advertised, because, supposing Mr Dickson of Saughton values my farm, he takes into consideration the rent given for others

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in the district. If, instead of letting my own property to my brother, I had put it up to public competition, I am quite certain that I would have got far more than it is worth. The law has not affected me injuriously, as a farmer, in any other way. I have lost money as a manure merchant under the law; but about £100 will cover all my losses in ten years. I have been very fortunate in that respect; but I know every farmer in the county, and have backed out of many a case which has proved disastrous. Before I was a merchant on my own account, I lost, as an agent, £100 upon one transaction. I had dealt with the party nine or ten years, and he had always paid well. That is the only loss that I sustained as an agent, so far as I remember, and I was an agent for thirteen years. These are the only cases of personal inconvenience which I have sustained from the law, and very few people have been so fortunate. The £100 of loss which I met with as a merchant was in three cases particularly. Two of them were cases of sequestration, and the other was under a trust-disposition. In the cases of sequestration, one landlord got his whole rent, and the other lost £100, and the general creditors did not get a penny of dividend. The tenant was a man of middling character, and partly displenished and ran away. If the landlord had exercised proper caution, he would never have been taken as tenant. He had been in the farm four or five years. The landlord got an increase of £40 or £45 a year of rent on that farm. The other creditors lost £200 or £300 among them. I am in favour of the total repeal of the law. I don't see how it could be amended. Even if there was no hypothec, I think the landlord is better protected than any other creditor, because he knows when his tenant has failed to pay his last half-year's rent, and has it in his power to take out sequestration. He can bring him before the Small Debt Court, if the law is abolished. But at present the landlord knows that the man is going back, while the other creditors do not. Sometimes a tenant has been going back in his rent for a long time before we know anything about it. I never enter into a second transaction with tenants till the old score is wiped off. I don't go beyond one year's dealing. A landlord who has entered into a nineteen years' lease risks only the interest of his capital, while, if I supply his tenant with manures and feeding-stuff, I risk not only the interest but the capital itself. The landlord is not tied up for nineteen years. He can put an end to the lease if the tenant fails to pay his rent. Every landlord has that power if he puts it in his lease, and I think almost every lease contains such a clause. *Q.* Suppose a tenant becomes bankrupt before the term at which the rent is payable, what protection would you give the landlord?—*A.* He does not deserve any, because he must have taken a man of straw as a tenant, without making any inquiry into his circumstances. I never knew a tenant become bankrupt before he was in arrears of rent. *Q.* But supposing the law abolished, while every other creditor can give short credit, what security would you give the landlord for getting his rent when it became due?—*A.* I am not prepared to answer that question. On many estates in the county of Roxburgh that I am acquainted with, the law of hypothec has never been put in force. When a proprietor lets his land at a reasonable rent, as is done on the large estates in our county, there is never such a thing as a failure. I have made my losses, not where the rents have been back-rented, nor half back-rented, but where they have been payable nine months after entry. The hardest case I ever met with was a case where the landlord swept away everything, and never called any meeting of creditors, and the creditors never got a farthing. There the rent was payable nine months after entry. We never even got an account of what was on the farm. I think sequestration should be made public.

To Mr Carnegie.—I don't see why any change that may be made on the law should not apply to existing leases. When the Corn-laws were swept away, existing leases were not exempted. The following of grain is not known in our county. The worst landlord in the county would not be guilty of such a monstrosity. That part of the law must have been meant to apply to days long gone by, when farmers had no capital, and everything on the farm was the landlord's. I generally market at Kelso. That is a sample market. It is impossible to keep a register of the quantity of grain sold in the market.

To Mr Hope.—Generally, in our county, our course of husbandry is the five-shift rotation. The tenants enter to two-fifths in grass and one-fifth in fallow. They pay their first rent at February following—nine months after entry, and the next rent at Lammas. In one of the cases where the landlord swept off everything, he claimed for a year's rent, and in the other for a year and a half's.

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It took the whole crop to meet the claim of the landlord, notwithstanding fore-renting, and there was nothing left to divide among the other creditors.

To Mr Carnegie.—I don't know about the arrears, but it is likely there were arrears.

To Mr Hope.—The tenants in these cases had not much stock, but there is always as much on the farms in our county as will satisfy the landlord's rent. These two cases were small tenancies, and they were fore-rented, having been put up to public competition. One of the tenants ran off. The other must have had capital to commence with, for he had paid me regularly for a number of years, and I never suspected that he was going to fail.

To Mr Fleming.—I am not aware that there were any accommodation bills in these two cases. The general creditors got no accounts in either of them. I was not aware that the abolishing of the law of hypothec would sweep away sequestrations. In one case, four years ago, a merchant entered on a farm in Roxburghshire. He was apparently possessed of means. He went on for two years paying nobody, and then he failed. He left a considerable quantity of unexhausted manure and tiles on the land. It was very hard that all his other creditors should lose for want of discretion on the part of the landlord in taking such a man, because he had no capital, and was in debt to the extent of £1400 when he took the farm. One creditor gave him £100 worth of tiles and lime, for which he never received a shilling. The landlord was paid his rent, and the farm was left in better condition than when the tenant entered to it. A great many landlords will not exercise the necessary discretion in selecting tenants till the law of hypothec is abolished. I have no fear that landlords who have fairly rented farms would lose money if the law were abolished. I am still of opinion that the law should be abolished, because I think it is not fair that the landlord, who can only lose the interest of his capital, should sweep away everything, while the merchant, who loses his capital as well as his interest, gets nothing. The landlord can protect himself by getting a tenant with plenty of capital; and if during his lease he should not be able to pay his rent, owing to losses which he has suffered, the landlord can get quit of him by having a clause in the lease to that effect. If the landlord likes to give him indulgence, let him do so at his own risk, and not at the risk of others. At present landlords are liberal at the expense of other creditors.

To Mr M'Lagan.—Generally speaking, the landlords of Roxburghshire never act on the law of hypothec. But I have seen the whole tenantry of one proprietor rouped out, and in some other cases I have seen the law put in force. These were cases where the farms were let by public competition, and outrageously high rents got for them; but where the factors are judicious, practical men, such things don't occur. The law has never been put in operation except where the farms had been put up to public competition. I consider judicious management to be the rule rather than the exception in Roxburghshire. The law has not operated injuriously in the county except on these estates; and almost all the estates I allude to are not in the hands of practical men, but in the hands of solicitors, who always take the highest offer, knowing that the rent is secure under the law of hypothec, and that they will perhaps get the farm back in an improved state. I consider solicitors generally bad managers of estates. On the well-managed estates there are resident factors, who know something about the business. Generally speaking, in the cases which I have mentioned, the farms were not deteriorated when the tenants failed, and in one case the tenant left lime and tiles lying on the land.

To Mr Fleming.—I don't think fore-renting alone would be sufficient security. The great thing is the judicious selection of a tenant. Every landlord in our county has such a variety of offers that he can select a man with whom there is no risk whatever, and who has plenty of capital.

To Mr M'Lagan.—I am sure that if the law were abolished it would be a boon to the landlords. Except on noblemen's estates, land has gone up to a fictitious value, and it must come down. Those that have been getting the biggest rents will get the smallest by and by. I would also abolish the urban hypothec.

(57.) Mr THOMAS CUNNINGHAM.

Thomas Cunningham.

To Sir W. Gibson Craig.—I occupy the farms of Dalachy, Balram, and Murrell, in Fifeshire, extending to about 600 acres. My rent is about £950. I have been a farmer for twenty-seven years. About one-sixth of my farms is in permanent pasture. I have not experienced any inconvenience from the law of hypothec. It is very difficult to say whether it should be abolished. There is a great deal to be said on both sides. I am not prepared to say that it should be entirely abolished; but I would restrict the landlord's hypothec to twelve months, and do away with his power to follow grain after it is sold and paid for. If a landlord chooses to give longer credit than twelve months, that ought to be at his own risk. My term of entry is Martinmas to the whole farms, and my rent is payable at Candlemas twelvemonth and Whitsunday after the crop is reaped, but generally it is not asked till Whitsunday and Lammas. Whatever the landlord's right is now, I would give him the hypothec for just one year's rent.

To Mr Fleming.—*Q.* Suppose a Martinmas entry, and that the tenant becomes bankrupt after Whitsunday—after he has reaped the first crop, and when the second crop is in the ground—would you give the landlord a right to sequestrate?—*A.* Certainly. *Q.* Then would you allow the ordinary creditors to reap that crop, and give the landlord no right to secure the rent?—*A.* I would, along with the landlord. He has his hypothec over the tenant's stock besides, which ought to be sufficient.

To Sir W. Gibson Craig.—I have not known any cases of hardship or inconvenience in my neighbourhood from the law. There have been no tenants sequestrated in my neighbourhood that I know of. I am not aware that the law has been enforced in our part of the country. I think the landlords there are careful in the selection of their tenants. I should say they look both to skill and capital.

To Mr Hope.—I spend about £1 an acre over all my arable land for manures. I use about seventy tons of feeding-stuffs.

To Mr Carnegie.—Whatever claims for rent, past or future, a landlord has on a tenant, I would give him one year in full, and for the rest he must rank as an ordinary creditor.

To Sir W. Gibson Craig.—I would allow the landlord to rank with other creditors on the growing crop. A great proportion of what grows that crop is generally furnished by others.

To Mr Fleming.—*Q.* Why would you give the landlord a preference for the arrears, and not for the current year's crop?—*A.* Because he has his hypothec over the tenant's stock for his arrears, and his share with the other creditors over the current crop. *Q.* But the landlord could not sequestrate till the rent becomes due?—*A.* I am not aware. *Q.* Then you are not prepared to say on what ground your opinion is arrived at?—*A.* Only so far as I have indicated.

(58.) Mr ROBERT RIDDOCH GLEN.

Robert R. Glen.

To the Chairman.—I am a writer and bank-agent in Linlithgow. I have been a writer for about twenty-six years, agent for the Commercial Bank for sixteen, and my partner, Mr Henderson, and myself are factors for several of the landed proprietors in the county, and we are local agents for the greater number of the larger proprietors. We draw about £13,000 a year of rents from between forty and fifty tenants, on seven different estates. The rents range from £60 to £1100. Most of the farms are arable farms. I should mention that two of the tenants from whom we draw about £1100 a year are in Northumberland. The term of entry in all these cases is Martinmas to the whole farm, and the rents are payable, some at Martinmas and Whitsunday, but the greater number at Candlemas and Whitsunday after reaping; one or two at Candlemas and Lammas. These are the general terms in Linlithgow, and I think they operate beneficially for the interests of agriculture generally. I am decidedly in favour of the maintenance of the law of hypothec as it at present stands. I think it allows the tenant who has a full amount of capital to stock his farm and carry it on advantageously, both for himself and the proprietor. I don't think it would be reasonable to insist that a tenant shall have not only a sufficient amount to

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stock his farm, but also to pay a rent in advance. I think it is fair that the rent shall not be payable till after the crop has been reaped. To those who have more limited capital than others the law must be more advantageous. To men full of means, who don't care whether they pay rent in advance or not, I don't think it is of any advantage. A very large proportion of the tenants under my management would certainly be unable to pay forehand rent; and, from my knowledge, I would say that a large proportion in the county would be unable to do so. I don't confine my remark to the small tenants. If the law were abolished, it seems to be the general opinion that fore-rents would be necessary, and I should certainly give that advice to landlords. The result of that would be a very great change in the present tenantry. A large number of well-to-do tenants would leave the profession altogether; they could not come down to the smaller farms, where they would require themselves to work; and, as to the smaller tenantry, the change would be more extensive—they must either go into town or become grieves. These small tenants, with few exceptions, have been in their farms as long as I can remember. Their farms have descended from father to son. I have been a factor from ten to twenty years. The tenants generally in the county whom I have spoken to on the subject—both large and small—are decidedly opposed to any change in the period of paying their rents, and agree with me that they could not remain on their farms if that were enforced. I am not aware that in practice the present law operates to prevent tenants getting credit from the bank for a legitimate transaction. Very few of the tenants, I think, have cash-credits; they have just deposit-accounts, on which they are allowed an over-draft occasionally, at a particular period of the year, when their hands are rather empty from stocking their farms. I am not aware that the present law hampers their credit with bankers.

To Mr Carnegie.—There has been a general rise in the rent on the reletting of the farms. Although these small tenants have been able to pay an increased rent, I don't think they could pay a fore-rent at the expiry of their leases. During the last five years there have only been twenty-one tenants sequestrated in the county of Linlithgow, whose rents exceed £50 a year. In some of these cases a sale took place, and in others there was an arrangement with creditors. I may mention that thirteen of the twenty-one sequestrations proceeded from our office; and, so far as I can judge from looking over the list, none of them was laid on merely to shelter the landlord, and to lie *in retentis;* they were really used to operate payment for the landlord. When a sequestration is laid on against a tenant, it is spread up and down the district in the immediate neighbourhood next day, as widely as if it were published. I cannot recall to my mind any instance where tradesmen sold goods to farmers who were actually under sequestration at the time. In several of the cases I have mentioned the landlord has not been paid in full, but arranged with creditors, and the creditors were paid a dividend, though I cannot tell the amount. In some of these cases there were arrears of rent for which the landlord ranked, but he also ceded part of his preference in order to get rid of the tenant at once, and to get the farm relet. I should say that the dividends to creditors upon a farmer's estate are generally small. I don't believe that a landlord in selecting a tenant trusts a very great deal to the law of hypothec. No doubt it must be an element, but I don't think any reasonable man would trust to it altogether in selecting a tenant. I certainly don't do so myself. It is quite likely that it may in some cases induce a factor or a landlord to accept a high bidder for a farm, whom he would not otherwise accept. I see no objection to sequestrations being made public; and not only so, but I would make the landlord's possession real,—he should enter into possession of the sequestrated effects. I do not think that the power of the landlord, as at present, to follow grain should be retained. Where there is a *bonâ fide* sale of crop before it has been attached by the landlord,—where delivery has taken place, and the price has been paid,—I think the landlord should not be allowed to follow it.

To the Chairman.—I would extend that privilege to private sales in the stack-yard, where the crop has been removed. It might be well that the landlord should receive intimation of such a sale, but I would not insist on that.

To Mr Carnegie.—It would certainly be prejudicial to the landlord's interest to limit his preference to one year's rent. That would make landlords insist on payment at an earlier period, which I should consider disadvantageous. Of course it would be less hurtful than a total abolition of the law.

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To Mr Hope.—The thirteen sequestrations which I have referred to, were used in the five years from 1860 to 1864 inclusive. The number of tenants sequestrated in those years was twenty-one. The number of sequestrations was thirty-two, several of the same tenants having been sequestrated more than once. Of the thirty-two, twenty-four were from the office of my firm. Several of these tenants were sold off. There is one tenant that we cannot get out. We have three sequestrations against him. He is three years' rent in arrear. In regard to nearly all the tenants whom we have sequestrated, we are not factors on the estates on which their farms are, but only local agents for the proprietors. In all these cases except one, we were merely local agents for the parties sequestrating. The exception is the tenant whom I have mentioned that we cannot get out. That man's father ran out a nineteen years' lease of the farm, and the present tenant got a new lease three years ago. One of the stipulations of the lease was, that the fences were to be put in order at the mutual expense of landlord and tenant, and that was being done. The rent was payable at Candlemas and Whitsunday. The landlord at that time collected his own rents, and we have been factors for only one year. The tenant asked that payment should be postponed to Lammas. Another condition of the lease was, if the landlord got a grant of drainage money, he should give the tenant £300 to be expended on the farm. The grant was got; the tenant applied £30 of the £300, and then stopped, and said he neither wanted his fences repaired nor the drainage money applied, because he wished to renounce the lease. Another stipulation of the lease was, that he should get £150 spent on an addition to his dwelling-house. He intimated that he did not wish that money expended. He got into litigation with third parties in no way connected with the farm; and he got involved through that litigation and through building speculations. The landlord was then forced to apply for a sequestration. The tenant brought an action of damages against the landlord in the Supreme Court for wrongous use of sequestration, because he had not spent the drainage money, or repaired the fences, or built the addition to the dwelling-house. Another year's rent fell due. The proprietor was advised not to sequestrate till the rent was payable. By that time the whole crop of the second year was removed, and the stock was the only thing on the farm. A third year's rent fell due, and we then sequestrated the crop growing. That third sequestration is also defended. The crop was reaped and put into the stack-yard: a threshing-machine was got by the tenant, who threshed during two days about 130 or 140 bolls, the greater part of which was sent to the mill; but the landlord interdicted the miller from parting with it. The hay sequestrated was sold off, and we brought an action for breach of sequestration against the tenant removing the hay. The tenant denies that he removed it; a record is made up in the Sheriff Court, proof is ordered, and the process is advocated to the Court of Session. The man has been in prison for about three months for debt. We then brought an action of removing against him. He defends the action of removing, and there he is with three years' rent in arrear. The matter will come before the Court of Session, and in a year hence perhaps we may get the man out.

To Mr M'Lagan.—The right of hypothec did not cover the landlord's claim there, and the landlord's interests are suffering by the great deterioration of the farm, which is at present unlaboured.

To Mr Hope.—The present class of tenantry in Linlithgow, as a rule, could not fore-rent their farms. I cannot say that they are imprudent. It is not our practice to advertise farms, unless when a tenant wishes to leave. We generally let them by valuation or by private agreement with the tenant himself. I don't think we have advertised any farm where the tenant really wished to remain. We have used very few sequestrations on estates on which we are the factors. I don't know what would become of the small farmers if the law were abolished. They might go abroad. I don't think they would take smaller farms. I think fore-renting would be absolutely necessary for the security of the landlords. *Q.* What advantages do landlords derive from this law?—*A.* They get a very wholesome competition for their farms; and I think they are benefited by the present system, in so far as they get a higher rent than if the law were abolished, and forehand rents were the rule. I think capitalists would benefit if the law were abolished; but I think the present competition is a wholesome one, and quite legitimate. Undoubtedly, if the landlord's preference were done away with, ordinary creditors of tenants would benefit to some extent. I would not say that their loss is the extent of the landlord's gain at present. I think the land-

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lords benefit to a large extent by the present law; but it is a benefit that they are fairly entitled to get, from the capital which they put into the tenant's hands. I don't think that what they gain is lost to the mercantile community. They get a considerably larger return for their land than they would get if the law were abolished; but I don't think that the difference between what they get now, and what they would get afterwards, would go into the pockets of the mercantile community. *Q.* If a tenant failed, would there not be much more to divide among the ordinary creditors?—*A.* The rent being paid before, it would just be paid out of the free part of the crop, in place of out of the stocking. The tenant, reaping his crop, often pays the ordinary creditors out of the crop; and the landlord is generally the last to come in, and he has the stocking to fall back upon. If the rents were forehanded he would not have the stock. *Q.* Could a tenant go on as long under the one system as the other?—*A.* He would require more capital to begin with, and there would possibly be more left at the end. *Q.* Whatever the landlord gains by sequestration is at the loss of manure merchants, wrights, smiths, etc.?—*A.* If the landlord was paid, he would have the rent in his pocket, and would not require to sequestrate, and the creditors would get the difference; but I don't know that they would be in a much better position.

To Mr Fleming.—Supposing the landlords had only recovered 12s. 6d. per cent. of their rents in the county of Linlithgow under the law of hypothec, I should certainly not regard that as the measure of the advantage which they derive from the law. It is a security for the payment of all rents. If the law were abolished, I would take care to see that the tenant could pay forehand rent, and stock his farm properly. Landlords would endeavour to get more security if they could, but it would be very difficult to get it. *Q.* Do you see any practical difficulty in limiting the right of the landlord to three half-years' rents, following the precedent of the Bankrupt Act with reference to a heritable creditor?—*A.* There would be a difficulty in working out that. *Q.* Do you see any practical difficulty in following that precedent, and limiting the landlord's right, as against the ordinary creditors, to the rent of the current crop, and an arrear of half a year?—*A.* In many cases that might be sacrificing his legitimate rights to the extent of half a year. *Q.* Would you not think it desirable that the landlord should be compelled to sequestrate for the first half-year's rent, instead of being at liberty to allow the whole year's rent to fall into arrear?—*A.* I do not myself so much care about the first half-year. Supposing the tenant did not pay the first half-year, you sequestrate and secure the whole of that year, and perhaps his crop for the following year is not sown, and the farm is left in such a state, that you don't know what to make of it. You tie up the tenant's hands. There is not time to let the farm, and the landlord must work it to great disadvantage, and in the long run he has only half a year's preference for the subsequent year's rent. The tenant would have entered on the second year's tenancy without having sown the crop of that year, and the stocking would be sold off to pay the previous year's rent. The effect of any proposal of that kind would be to induce the landlords to fore-rent, and that would be a disadvantage to tenants—particularly to the present class of tenants. In regard to the landlord's right to follow grain, I would insist on delivery in order to take away his preference, because otherwise there might be collusive bargains entered into; and seeing the valuable subject which the landlord entrusts to the tenant, and the loss he might sustain by deterioration of the land, I think he is entitled to a preference beyond what a mercantile man ought to have. If a sale by public roup on the farm were properly advertised, and proper notice given, I am not sure that I would insist on the landlord's preference, even if delivery had not taken place, because I think the landlord would then have the opportunity of sequestrating in order to secure his preference before the public roup. In the case of a private sale he has not that opportunity. If a tenant is selling off his growing crop, the landlord has a right to sequestrate in security, before the rent is payable, though he may subject himself to damages for so doing. It is unusual for a well-doing tenant to sell off his crop in that way. Sales of hay are common, but sales of growing crop rarely take place except when a tenant is leaving a farm. In all our leases tenants are allowed to sell growing potatoes. I think there should be a statutory irritancy of leases. If the landlord applies for sequestration, that should be sufficient to irritate the lease. The last farm of any consequence which I let, I refused 15s. an acre more for it than the offer

which I accepted, and that from a tenant with sufficient means to stock the farm, but without sufficient skill, and because I was satisfied the offer was excessive. I think farmers should not have much to do with advances from bankers. I am aware that some bankers do deal in accommodation bills with farmers. Robert R. Glen.

To Mr M'Lagan.—I should have no objection to the time being shortened within which the landlord can exercise his right of hypothec, after the last conventional term of payment. I don't think it could be made shorter than forty days. I should approve of that being done, assuming that the rents are to remain as they are. The five years in which the sequestrations which I have mentioned took place were very bad years. We had nothing like the same number of sequestrations from our office in previous years. I am aware that in the county of Linlithgow some tenants who were in a depressed state have been supported by accommodation bills. I know that bills, which I knew to be accommodation bills, and which I refused to take, have been cashed at other banks. Notwithstanding the law of hypothec, bankers do give accommodation to farmers

To Mr Hope.—*Q.* How do you account for their requiring these bills?—*A.* The last few years have been very depressed ones for farmers. Perhaps it would be better if farmers paid ready money for everything they buy; but they should at all events pay within a certain limited time, when they have a crop on hand.

To Mr Fleming.—In several instances of late, the liabilities of farmers have been augmented by accommodation bills; and I am aware that tenants have been in the habit of lending their names to each other.

To Mr Carnegie.—I think fore-renting would cause a very large reduction of rents.

To Mr Fleming.—I think the landlord puts more in his pocket by allowing rents to be paid as they are now, than he would if they were fore-rented.

To the Chairman.—The competition would be very much reduced.

To Mr Carnegie.—Landlords would not get so much rent as they get at present.

(59.) Mr ROBERT ELLIOT.

To the Chairman.—I am a farmer at Laighwood, near Dunkeld. I have been engaged in the practice of agriculture for nearly forty years. I was originally in Roxburghshire, then in Dumfriesshire, and I have been in Perthshire for nearly nine years. My present farm is a pasture farm, with 500 or 600 acres of arable land. I have from 8000 to 10,000 sheep. I pay over £2600 for rent, and about £300 for wintering. I have been extensively employed as a land-valuator in different parts of the country. I am well acquainted with the state of the agricultural population. My opinion is, that the law of hypothec has most injuriously affected the interests of all classes, and that every year it is becoming more and more injurious, especially as affecting the interests of the landlord, by giving him facilities for putting into his farms men with insufficient capital, who have not been able to cultivate their farms properly, or to develope their capabilities. The consequence is, that at present there is a very great proportion of the tenantry of Scotland who have arable farms, occupying them with insufficient means. I think the existence of the law of hypothec has tended materially to encourage this imprudence on the part of the landlords. It has also been very prejudicial to the interests of tenants, because it has put great numbers of them into a false position. There are great numbers occupying 200 acres of land who would have flourished and done well if they had occupied only 150, and so on, because their insufficient capital prevented them from cultivating the land with profit to themselves. If there had been no such law, landlords would not have put into their farms men whom they did not firmly believe to have sufficient capital to fulfil their engagements. If I could begin at the beginning, I certainly would have had no law of hypothec. Seeing that the landlord had power to select the tenant, I would have given him an equal risk with all. When I began farming nearly forty years ago, everything almost that went to raise the crop was the land and the labour. The implements were of the very simplest description—wooden ploughs and harrows of the simplest sort. There were no special manures of any kind used. I was the first within ten or twenty miles of Hawick that even used bone-dust. The manure merchant now has a bill nearly equal to the rent for arable land, if it is well cultivated. Now the crop is raised by the land, Robert Elliot.

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the seed merchant, the implement-maker, the manure-dealer, and the labourer. When I began farming, I did not see that it was a great evil that the landlord and the labourer should be protected, seeing that they raised the crop; but now when it is the landlord, the seed merchant, the manure merchant, the labourer, and the implement-maker that raise the crop, I cannot see on what grounds the landlord and the labourer should be protected, and not the other interests that raise the crop. I think the law ought to be entirely abolished; and, along with that, I think an Act should be passed making it much easier for the landlord to remove a tenant who has not paid his rent or fulfilled the other conditions of his lease. At present it is very difficult to get quit of a tenant; and therefore, coupled with the abolition of the law of hypothec, I would have an Act passed making ejection easy. I would not give the landlord any other security. So firmly impressed am I with the belief that the landlords would be benefited in a short time by having a proper class of tenantry throughout Scotland, that I would at once abolish the law. *Q.* Would you apply the abolition to existing leases?—*A.* Had I been asked that question in 1845, before Sir Robert Peel removed the duties on corn, I would have said no; but when the Legislature passed an Act which it was believed would ruin every farmer occupying land on a nineteen years' lease, and which did not exempt the tenants holding these leases, I cannot see why the Legislature should protect the landlords in abolishing the law of hypothec. It turned out in that case that the tenants did not lose, and I am satisfied that in this case the abolition would be to the great profit of the landlords. The enactment for the more easy ejectment of tenants, who do not fulfil the conditions of their leases, should also be applied to existing leases. I do not know the exact period of credit given by manure merchants to farmers, but they can insist on ready money, or on short periods of credit. *Q.* Supposing the law of hypothec were abolished, and the other parties who are concerned with the landlord in raising the crop were to demand payment of their accounts before the landlord's rent was due, would he not be put in a worse position than they would occupy?—*A.* No; because he selects his tenant, and can make his own bargain with him. He can insist on ready money as well as any of the other parties. *Q.* Don't the manure merchants select the men with whom they deal?—*A.* They do; but the farmers with whom they deal are selected as tenants by the landlords, and it is to the loss of the manure merchants if the landlords put in men who cannot pay cash, or men with whom the manure merchants cannot deal. If the law were abolished, landlords would take greater care in selecting their tenants, and they would trust those whom they know to be trustworthy, though generally the leaning would be to fore-rents. The terms of payment in my district are very various. I entered to the houses and natural pasture at Whitsunday, and to the arable land at the separation of the crop. I should pay my first rent at the first Martinmas, and my second at Whitsunday; but by verbal agreement I pay at Martinmas, and the first week of August; but the principal portion of my land is grazing ground, and on grazing farms that is scarcely fore-renting, because the grass is reaped the first summer, and in the winter half-year there is not much reaped, because winterings have to be taken. On arable farms in Perthshire I think the period of entry is at Whitsunday to the house, and at Martinmas to the arable land. It is the common practice to pay the first rent at Martinmas following. A great number of the present tenantry could not pay fore-rents. The result would be to put every man into the quantity of land which he has capital to occupy aright, and it is for that purpose that I wish the law abolished. I think tenants ought to have sufficient capital to be able to pay forehand rent; and so much am I impressed with the importance of having men of capital in the land, that I would sacrifice almost anything, if I were a landed proprietor, to get it. There will never be proper cultivation of the land, or a good thriving tenantry in Scotland, till we have men with sufficient means. I don't want to make all the farms large farms. I should like to see them of all sizes; but every man who occupies a farm should have capital sufficient to cultivate it, even if it is only a ten-acre plot. The natural result would be fore-rents, but there are many tenants whom a landlord would trust without security. If an Act for the easy ejectment of tenants was passed, the landlord would have no fear of letting his land on long leases, because he would then only risk a year's rent, and could easily get quit of a tenant if he did not fulfil the conditions of his contract. I have not considered particularly as to the provisions of such an Act; but if the tenant is bound to pay his rent at Martinmas and Whitsun-

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day, and does not pay then, the landlord should give him notice that, if he does not pay within three months, he will serve him with a notice bringing the lease to an end; and so also with any of the other conditions of the contract.

To Mr M'Lagan.—I think fore-renting would be sufficient security to the landlord. If a tenant enters at Martinmas, the first half-year's rent should be payable at Whitsunday first. *Q.* Suppose, after he has been some years on the farm, a tenant finds his affairs getting involved, the manure merchants and others might all be paid before the rent is due, and the landlord might get nothing—would you consider that a fair position to place the landlord in? —*A.* I consider the landlord must just take care of himself. If he does not think fore-renting sufficient, he can ask the security of other parties for the rent. He has the power of putting the tenant there, and he has himself to blame if he does not get sufficient security. I have no doubt landlords would take more care than they do at present whom they select as tenants, and they would make themselves sure of their rents. Banks and the public would then give more credit to a tenant, because they would know that he was put in his farm by one who was running an equal risk with themselves. The status of the tenant would rise at once, and he would be put in a different position. He would rise in his own estimation, and in the estimation of the public. At present everything is in the dark. I have been in various districts of the country during the last twelve months, and the number of persons who are privately sequestrated is beyond belief. I think private sequestrations should be abolished at once. They should be made public the moment they take place. Even if a landlord after due inquiry found himself deceived as to the means of a tenant, if the Act which I have recommended were passed, he could only run his risk for a year, and I think it is not fair that the public should be his security, as they are at present by the law of hypothec. As commissioner for Mr Mackenzie of Newbie, I bought a property, and found on it a tenant who had just got a lease of a farm of £300 or £400 a year. The first two years no rent was paid, and I sequestrated. He sold some of the sequestrated articles, and, knowing he had insufficient means, I succeeded in getting him to renounce the lease. By a sale of his effects I got the two years' rents with expenses, but the public only got 1s. 3d. per pound. The public were there security for the landlord's rent. Of course the public knew of the landlord's preference by the law of hypothec, but they did not know that there had been a private sequestration; they saw the man had been put into a large farm, and thought all was right. *Q.* Is it your opinion that it is the practice in Perthshire for factors or landlords' agents to put men into farms without capital or skill, simply because they are the highest offerers?—*A.* This is the way in which it is generally done, —a farm is advertised, a great number of offerers come forward, and it is only human nature to suppose that an agent who is anxious to show a good rent-roll will, with the security of the law of hypothec, take the man who offers the highest rent. I don't say the agents in Perthshire are careless, for they always prefer a man with capital if he is the highest offerer; but it tempts them to put in a man without sufficient capital and skill, if he offers a large sum. *Q.* Don't you think the statutory irritancy of the lease which you propose on the non-fulfilment of the conditions of the lease would operate harshly on tenants? —*A.* No landlord would turn out a good tenant. He would only turn out a man who could not pay his rent, and fulfil the conditions of the contract. I know no more hopeless life than that of a tenant toiling on with a load of arrears on his back, without any hope of getting quit of them, and without capital to make the most of his land. The sooner that man is put into a different position the better for himself. *Q.* Then you would not abolish the law of hypothec without having that statutory irritancy?—*A.* No.

To Mr Fleming.—Tenants do not get the same amount of credit from banks under the law of hypothec which they would do if the landlord in selecting them ran the same risk as the rest of the public. They would be men of more credit and standing if the law were abolished. I never signed a bill myself, though I have no doubt some farmers' bills are accommodation bills. I did not mean to say that the abolition of the law would encourage the discounting of such bills. I meant that bankers would be more ready to allow a tenant to overdraw his account occasionally. I have known bankers often allow an overdraft to a farmer whom they knew to be a good man. I think the tendency of the abolition of the law would be to reduce the rents which have been promised; but my

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impression is, that the actual rent would not be reduced of what will be paid within the next ten years. *Q.* Do you think there are so many sequestrations at present that it would operate in that way in ten years?—*A.* There are a great many sequestrations which will end in that. *Q.* Suppose one of the conditions of a lease is that the tenant shall pay his rent at Martinmas and Whitsunday, and he fails to pay at Whitsunday, and is a year in arrear, another crop being then sown, when would you permit the landlord to eject him?—how would you work that out in the case of an arable farm?—*A.* I don't see how to work that out, and I think there should be another Act passed to remedy that difficulty. But the case I put was that of a tenant entering to the houses and pasture at Whitsunday, and not getting the arable land till Martinmas, but paying the first half-year's rent at Martinmas.

To Mr Carnegie.—I propose that he shall pay the first rent on entering to the corn-land.

To Mr Fleming.—I would not compel landlords to stipulate for prepayment of rent; but if they had not trust in their tenants, they would naturally fall into that system. *Q.* Suppose a landlord has let his farm to a tenant whom he believes to be trustworthy, but he finds he is not so, and the rent is payable at Martinmas and Whitsunday for the previous crop, how would you work that out?—*A.* I am taking it for the crop to come; I don't see my way to working it out the other way. I certainly did not mean to say that landlords and their factors and agents invariably prefer the highest offerer for a farm, but a great number do; and the law of hypothec has a tendency to tempt them to do so. Twice I myself have offered what I believed the full value of farms, and I lost them in both cases. In one case the successful offerer was only in the farm three years, and had to give it up for want of capital. In another case I gave in an offer, and was asked by the landlord to come to him the morning after the last day of receiving offers. When I went, he said I was too low, and that unless I rose £40 I would not be accepted, and he would give the farm to good tenants who had offered that amount. I said I would not rise, and got on my horse to go away. He followed me, and tried me again. It was a large farm, and, as I wanted to have it, I agreed to give the £40 more. One of the other offerers was in the *Gazette* within three years, and I thought it a great injustice to put me against a man without capital. The law of hypothec may be altered or not, but I am satisfied the landlords will be compelled to put in men with more capital into their farms, or farming in Scotland will get into a state which I should be very sorry to live to see. I think that system of bidding-up is often resorted to. I have known the offerers put into separate rooms, and made to bid against each other. When I have valued for landlords I have always refused to be the means of raising the farms a farthing beyond my valuation. If the law of hypothec were abolished the landlord would be more cautious, because his risk would be greater. At present, at the end of every nineteen years' lease, the land is left, in nine cases out of ten, in poor condition. The tenant takes all he can out of it in the last three or four years of the lease, because he has no confidence that he will be allowed to remain in the farm.

To Mr Murray.—The bidding-up to which I have referred had no reference to the Duke of Athole, on whose estate I now am, nor to the Duke of Buccleuch. On both these estates I was treated in a very different manner, the question of rent being made a matter of comparatively small moment. The Duke of Athole said to me, 'You shall have the farm.' And then he said, 'But, by the bye, what about the rent?' I said, 'Well, your grace, I should have said that was the principal thing to be considered.' He said, 'No; I don't think it is the principal thing to be considered. I think it is of great importance that I should have the right man in a farm such as yours. I have satisfied myself of that. You are going to get the farms, you are accustomed to value land, and I will trust to you putting a fair rent upon them.' And I did so. The Duke of Buccleuch behaved in exactly the same way. He always preferred the man to the rent. And I would like to say that, if I did not feel perfectly confident that the abolition of the law would ultimately benefit the landlord as much as any other class, I would pause before I gave this evidence, for I would not see the landlords of Scotland injured on any small consideration. I am intimately acquainted with the low-land and highland districts of Perthshire. There are a number of small farmers there. I think the majority of them could not pay fore-rents. The result of the abolition of the law would be to make them take farms in proportion to their

means. If they were men of good character, I don't think they would lose their present farms, though they would lose them if the landlord required fore-rents to be paid. Robert Elliot.

To Mr Carnegie.—The moment men with capital saw that they were not offering for farms against men of straw, I think they would come forward and take possession of the land. There is abundance of capital in the country. If I had ten sons I would not recommend one of them to be a farmer as long as the law of hypothec exists. *Q.* Don't you think some of these small tenants, who have had leases for nineteen years, must have saved enough of money to be able to pay fore-rent?—*A.* Unfortunately the great majority of the small tenants who have entered with insufficient means have never raised themselves at all, but those who have entered with sufficient means have made enough to pay fore-rent.

To the Chairman.—The exaction of fore-rent would diminish the number of competitors for farms, and at first it might lower rents, but ultimately it would raise rents; more money would be actually paid, I believe.

Wednesday, January 25, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR HOPE.
HON. MR CARNEGIE.	MR M'LAGAN.
MR FLEMING.	MR CURROR.

(60.) MR ALEXANDER COPLAND.

To the Chairman.—I am one of the managers of the Aberdeen Commercial Company. That company deals largely in manures and in grain. Their transactions are principally with farmers in the counties of Aberdeen, Kincardine, and Forfar. I have acted as secretary to a committee which has been formed in Aberdeen on the subject of a change in the law of hypothec. I have been connected with the Commercial Company for upwards of two years; before that I was for nine years in the employment of Messrs Jopp and Shand, law-agents and factors, who had charge of several large estates in Aberdeenshire, besides being local law-agents for other properties. Previous to making a thorough inquiry into the subject of the law of hypothec, and looking to its effects on such a business as ours, I had a considerable bias in favour of the landlord having some preference; but, from a more thorough investigation into it, I am quite satisfied that there should be no such preference. The law operates most injuriously to the other creditors of a tenant. The sales of our company amount on an average to nearly £90,000 a year. There are two other companies in the same business—viz., the Aberdeen Lime Company, and the Northern Agricultural Company; and the united sales of the three companies amount to £240,000 a year. I have got information from the managers of these other companies to enable me to say so. These are sales to farmers, and they are principally in the counties I have mentioned. Taking two of the manures we deal in—guano and bones—the imports into Aberdeen, on the average of the last three years, were of guano, 7241 tons; bones, 8714 tons; representing together, £161,298. The purchases of oats by the Aberdeen Commercial Company amount to about 60,000 quarters a year; and taking oats, barley, bere, and wheat, our purchases will represent over £60,000. No part of that grain is purchased in a bulk or stock market—there is no such market in Aberdeenshire; and little of it is purchased by sample. Our system of purchase is this:—We have agents at all the principal railway stations in Aberdeenshire, about thirty in number. These agents receive the grain brought to them there, and pay the current price of the day for it. We ourselves seldom see the farmer. He sends the grain with his servant to the station, our agent receives it and gives a receipt for the quantity, and Alexander Copland.

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the settlement is often made in cash at the time, or it is passed to the farmer's credit in our books, and they receive the money when they call at our premises. Under this system we are liable, according to the present law, to make second payment to the landlord in any case where the tenant may not have paid his rent. I do not know of any instance in which we have been called on to make such second payment, and therefore I argue that the law is useless and ought to be abolished. We have never been called on to pay for oats a second time. We have been called on to pay again for other produce, but we did not actually require to pay for it twice. In one instance we were called on to pay nearly £40 for hay purchased from a tenant. Shortly after the purchase the factor on the property made a claim on us for the price of it, in respect that the tenant had not paid his rent, and had been sequestrated. Our law-agent explained to us that we were liable, but the matter was afterwards adjusted. I believe we had only paid part of the price to the tenant when the factor made the claim, and I understand that we really only paid for it once. The tenant managed to pay his rent, and got rid of the sequestration. I believe it was a sale in breach of the sequestration, but we were not aware of that at the time. In another case a claim was made upon us as to a purchase of hay which we had made from a tenant. The proprietor called and told us that the tenant was in arrears, and that we would have to pay for the hay a second time. It turned out, however, that the tenant dealt in hay, and it was not clear that the hay which he had sold to us had grown on his farm; we got rid of the claim in that way. These are the only instances which I am aware of in which such claims have been made against our company. They did not occur in the course of the two years during which I have been connected with the company, but the former manager brought them under my notice. The first case took place in February 1847, and the other in 1850.

To Mr Fleming.—Our company has existed since 1837.

To the Chairman.—I am not aware that there have been any other cases of that kind during the company's existence, but there have been several changes of managers in thattime. I have not been made aware of any case in which the other two companies have been called on to pay twice for produce. One of these companies has been only ten years in existence, and the other has been nearly as long as our own. *Q.* Can you mention any losses that you have sustained commercially by the existence of the law of hypothec?—*A.* I have made up statements for the two years during which I have been connected with the company, as at the period when our annual balance is made, viz. 31st August. I have prepared separate statements of our rankings on the estates of farmers, and our rankings on the estates of country merchants, traders, and others. Besides our manure business, I should mention that we carry on a considerable trade in coal; but that is principally supplied to farmers also, though in the country we have to supply blacksmiths, merchants, and people of all classes. These statements show that, for the year ending 31st August 1863, we ranked on thirty farmers' estates for £889, 11s. 3½d., and the average dividend that we received was 3s. 6¼d. Our dealings with farmers are to the extent of about £80,000, upon which we lost £889, minus the dividends. In six cases we received no dividend at all, and the highest dividend we received was 11s. 5d., the lowest being 1s. 3d. The whole amount of dividend received was £146, 13s. 10½d. In three cases I have not ascertained what dividend we are to get—the amount of our ranking in these three cases being £57, 9s. 2½d. *Q.* Are you aware of any other trade in which a person dealing to the extent of £80,000 only loses £700 a year?—*A.* I have no knowledge of the losses sustained in other trades. Some years we lose more than in others.

To Mr M'Lagan.—I am not aware that that was a bad agricultural year. There was an average crop that year.

To the Chairman.—In the same year our ranking on the estates of other classes amounted to £95, 10s. 9d. Our dealings with these classes amounted to about £10,000. These rankings took place in seven cases. The amount of dividend we received was £41, 10s. 7½d., and we got a dividend in each case. The average dividend was 8s. 8¼d.; the highest, 15s.; and the lowest, 4s. 8d. For the year ending 31st August 1864, we ranked on farmers' estates for £408, our dealings with them amounting to about £80,000. In three cases I have not ascertained what dividend we are to get, the estates not being yet wound up. Deduct £40, 6s. 10d.—being the rankings on which the dividend is

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unascertained—and in the other cases our dividends amounted to £86, 2s. The average dividend received upon these claims was 4s. 8d. per pound, and in five cases we received nothing. The highest dividend was 13s. 8d., and the lowest 1s. 6d. In the same period we ranked on the estates of blacksmiths, wrights, merchants, and others for £55, 17s, 1½d,—our dealings with them having been about £10,000. Deduct £17, 17s. 3d. for three claims unascertained, leaves £37, 19s. 10½d., on which we have received dividends amounting to £17, 1s. 10d., the average dividend being 9s. per pound. I find that for six years our loss, after crediting all dividends, was between £600 and £700 per annum, principally by farmers. We would not lose anything like that if the law were abolished. When a farmer fails we sometimes get no dividend at all. When a tradesman fails we are mostly always sure of a dividend, and the rate is always higher, and our caution is precisely the same in dealing with farmers and other parties. In regard to one tenant who was sequestrated for rent in April 1863, we had a claim on his estate for £45, 16s. 10d., part of which was for lime supplied to him about October 1862, from which he could have derived no benefit. The proprietor sequestrated for a year and a half's rent, which amounted to £135, and got full payment, besides the advantage of the lime supplied to the tenant. The total assets realized amounted to £278, 5s. 11d.; and, after deducting the proprietor's rent and other preferable claims, there was a balance in hand of only £4, 2s. 6d., which will not be sufficient to pay the law-agent's expenses. By other preferable claims I mean servants' wages, taxes, etc., and the expense of putting in crop 1863. The rent of the farm was £90. We had given the tenant six months' credit. He got his manures about March 1862, the account was rendered in October 1862, and he was sequestrated in April 1863. We pressed him for payment of our account, but could not get it. If we had taken proceedings against him, it is probable that he would have been brought down earlier. We did not know that he was in such bad circumstances, In another case we had a claim of £7, 17s. 10d. upon the estate of a tenant who failed in August 1863, and the dividend we got was only 4s. 7d., or 1s. 3d. per pound. He was sequestrated for rent. The total assets were £92, 13s. 11d. The proprietor received two years' rents—£58; other preferable accounts, £27, 11s. 8d., leaving £7, 2s. 3d. to divide. I am not able to say when our goods were furnished in that case, but our system is to render in October our accounts for goods supplied in the spring. The account in that case may not have been rendered. I think it is very likely that the account was for manure got that season. The rent of that farm was £29. In another case we supplied manures to a tenant to the amount of £14, 0s. 7d. He had newly entered to a farm, and had only paid one half-year's rent when he was sequestrated by the proprietor for the rent of the following half-year. He paid his first half-year's rent at Martinmas after shearing the crop, and he was sequestrated in the beginning of February,—the factor having found that there were no fewer than three diligences in use against him. His debts amounted to £223, 2s. 5d., and the dividend to the creditors was 1s. 3d. a pound. This was a sequestration for rent. He entered at Whitsunday 1860, and his first half-year's rent was payable at Martinmas 1861. The factor found in the beginning of February that there were diligences being used against him, and, to secure the last half of crop 1861, he sequestrated for it. That brought the tenant to a stop at once, and the creditors got 1s. 3d. in the pound. The amount of his rent was £16. That tenant had been accepted by the landlord against the strong remonstrances of his own factor, who thought him a very unsuitable person; but, because he offered a larger rent than other offerers, he was taken. I ascertained that from the factor himself. I have numerous cases of the same kind, in some of which we have received nothing at all. At October last we rendered about 7000 accounts to farmers and others. We have dealings with most of the farmers in Aberdeenshire. Many of the farmers have accounts with the three companies; and it is therefore very difficult to know how they stand. In one case we ranked on the estate of a farmer for £273, 9s. 7½d. His rent was about £350 a year, and our dividend was £88, 6s. 6d.; and the winding up was very well managed in that case,—much better than these estates generally are. I should say that our losses have been more with small tenants than with large ones. In another case we ranked for £10 on the estate of a farmer who entered to his farm at Whitsunday 1860. The proprietor's claim amounted to £240, being two years' rent, and the dividend left for the ordinary creditors and to pay the law-

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agent's expenses was £18, 3s. 10d. If that were divided among the ordinary creditors it would give about 1s. 6d. a pound. Had the rent of crop 1863 not been preferable we would have had 7s. 7d., and had the proprietor ranked for both rents we would have been still more favourably situated. This tenant was accepted solely because he offered a rent considerably above any of the other offerers. He was not a practical farmer; he was a brewer. The farm was let at £120 of rent. It has since been let on lease at £80 for the first three years, and £100 for the remainder of the lease. We were not aware when we dealt with this tenant that he was not a practical farmer. In this case a farm-servant's savings, which he had lent to the tenant, were entirely swept away; and when tenants get into difficulties they generally come upon their friends and relations, or those who will lend them money, and, when the crash comes, these parties lose all they have advanced. In some cases the law prevents friends and relations from giving their assistance,—that is, where they are prudent and careful; but, in several instances which I have known, family relationship and the pressure which has been used has induced parties, against their own judgment, to incur responsibility, for which they suffer severely in the end. In consequence of the law of hypothec, farmers do not get the same credit that traders and mercantile men get. They are held in suspicion. Bankers will not advance money to them; and in some instances where they do require a little money, to pay purchases at a roup, for example, they have to get sometimes as many as four names to a bill. *Q.* From your own knowledge can you say that the law of hypothec makes bankers deal with tenants in a different way from others?—*A.* It does. I have here a copy of the *Mercantile Test*, in which I find the names of no fewer than three farmers as acceptors of a bill for £8, 15s.

To Mr Fleming.—But for the law of hypothec I think two names would have secured the same accommodation.

To the Chairman.—To show that the law operates to the prejudice of other traders besides manure merchants, I have a statement from a firm of very respectable brewers in Inverury of six farmers who failed, against whom that firm had claims amounting to £16, 11s., and the dividends only amounted to £2, 8s., there being no dividend in two of the cases and fourpence in another. I cannot state the amount of the dealings of that firm, but they say that they could give numerous cases of a like nature. A firm of general merchants in Inverury writes: 'We will give you a few samples of how we have fared in consequence of the very obnoxious law at present in force. —— ran up an account with us for wire, etc., to enclose his fields, amounting to £8, 13s. 9d., and soon after failed, and we got no dividend, but left our wire, etc., to the laird, besides paying his rent in full. —— got from us seeds, etc., amounting to a considerable sum, and we were paid with 6s. 8d. per pound. —— got seeds to about £3, and we got no dividend. His rent was paid. I might mention fifty and upwards of such cases as these.' Another firm of distillers in Old Meldrum writes: 'When —— failed in August 1864, we were creditors upon his estate for £85, and will only recover 6s. per pound; whereas, had the proprietor not prevented us, we might have realized at least 15s. per pound. We alone in 1853 lost with another farmer £36, 18s. 3d., for which we got 5s. per pound; this also in consequence of the law of hypothec, otherwise we might have realized full payments.' That firm deals to the extent of probably £20,000 a year, though in the district in which these losses were sustained they have not dealings of more than about £5000. Another party, a furnishing tailor, writes: 'When ——, farmer, failed, I had an account against him for £6, 10s., on which I got no dividend. I have also lost several sums by others under similar circumstances, all under the injustice of the law of hypothec.' I could mention a number of similar cases. *Q.* Have you any other general objections to the law?—*A.* I object to it on the ground that the proprietor of land has merely invested his capital in the land, and that it is unjust that he should swallow up the capital of others. In some instances a proprietor may receive smaller interest on an investment in land than on other investments, but the proprietor benefits by the increased value which the land acquires. If a party invests money in a railway bond, he may get 4 per cent. interest, and when the bond is out he receives his capital with no addition; whereas, if he invests it in land, in a few years he may get a large return in the shape of increased value. I don't think any preference should be given to capital invested in land over money invested in any other way. *Q.* Do you think the preference of heritable

creditors ought to be abolished?—*A.* If you mean on heritable properties, then I say no; because there is a very great difference between a bond over a heritable property and the purchase of land. House property may be reduced in value very much. *Q.* Is there any hardship to the ordinary creditors in the case of a bankruptcy in the preference which the heritable creditor possesses?—*A.* Not in such a case as that, because it is well known that there is such a preference, and a creditor may satisfy himself as to burdens beforehand. *Q.* Is it not well known that the landlord has a preference under the law of hypothec?—*A.* I admit that, but the circumstances of a tenant cannot be ascertained in the same way as the burdens on an estate. Sequestration is also gone about in such a way that nobody knows that it has taken place. Alexander Copland.

To Sir W. Gibson Craig.—A proprietor of land is placed in a much more favourable position in every way than an ordinary creditor would be, even with the law of hypothec abolished. He has this advantage by the clause of registration in his lease, that he can do diligence summarily at any time should the tenant run into arrears, while an ordinary creditor must constitute his claim, which is often a tedious matter. *Q.* Is there not this difference,—that the proprietor cannot demand his rent till it is due, while the common creditor may demand payment of his account at any time?—*A.* The proprietor certainly cannot demand his rent till it is due; but should a year's rent fall due, he can demand caution for that rent and also for the five years following; and an ordinary creditor cannot demand payment of his account, until the credit allowed has expired.

To the Chairman.—*Q.* But the other creditors can demand payment during the currency of the year?—*A.* Only if their claims are constituted, and decree obtained.

To Mr Fleming.—*Q.* Put your company in the position of dealing with two parties, one a tenant and the other a landlord. In the one case you know that the tenant is subject to the law of hypothec; in the other you don't know what burdens affect the landlord's heritable property; which would you prefer to deal with?—*A.* We would much more readily deal with a proprietor than we would with a tenant. Just now we would do so, even if the law of hypothec were abolished.

To Sir W. Gibson Craig.—*Q.* You do not seem to have any objection to dealing with tenants though they are under the law of hypothec?—*A.* We cannot help it; we are obliged to deal with them under a system which appears to us a great injustice. We cannot see the justice of the landlord, whose capital cannot be taken from him, getting such a preference, while not only our profit is swept away but our capital also.

To the Chairman.—I would not advocate the entire abolition of the preference which a creditor holding a heritable bond has.

To Mr Fleming.—I would not do so, because I think the cases are very different. As I already explained, the sum lent by a bondholder cannot be increased; but the value of land generally does increase. The proprietor of the land can in no instance lose his capital, but every other party dealing with the tenant is in danger of losing not only his capital but his revenue. The proprietor at the utmost can only lose his rent.

To Sir W. Gibson Craig.—*Q.* What is the difference between a man buying an estate and buying a house—is there not the same hypothec over his property?—*A.* It is the same in regard to preference to a certain extent, but the position of the tenants is very different. No one takes a house and puts furniture in it to live off the furniture, at least not generally. I would have the law of hypothec on houses abolished also.

To the Chairman.—*Q.* Would you abolish the maritime hypothec?—*A.* I would not; that is a very different matter. If a ship at sea gets damaged, and has to put into a foreign port, and an advance is necessary to repair the ship, and a bond is granted for it, it is a very different thing from a party investing capital in land. In many cases a ship could have no repairs given to it in a foreign port without some such security.

To Mr Fleming.—*Q.* Do you think there should be any right of hypothec in a home port?—*A.* I don't think there is any at present.

To Sir W. Gibson Craig.—*Q.* Suppose a man invests his capital in the purchase of a warehouse, and grain is stored in that warehouse, you have a right of hypothec over the grain for the rent of the warehouse, would you do away with that?—*A.* Yes, I would.

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To Mr M'Lagan.—I am aware that there is such a thing as a lien on grain, viz. a power of retaining it for a debt due. I would do away with that.

To Mr Fleming.—I would abolish all such rights of lien, as are unfair to creditors.

To Sir W. Gibson Craig.—Sequestrations are very common in the counties in which we deal.

To Mr Fleming.—I would hardly go the length of abolishing the law-agent's right of retention. A law-agent is very peculiarly placed with a client coming to him. He may incur considerable expense in conducting a suit for him, and the party may have little or no means to pay him. He is entitled to some preference for his account out of what he may recover, but I think the case is entirely different from a landlord's preference for rent.

To Mr Hope.—The manure business commenced in Aberdeen previous to 1837. Our company was formed by the junction of two companies. The business consisted very much in supplying lime, etc., but it was not to the same extent that it is now. The present rents could not be got but for the large quantities of artificial manures that are used. *Q.* What is the general state of the farmers in the county of Aberdeen?—*A.* So far as I have observed they have enough to do with the present rents. There is a very keen competition for farms, and men are very often preferred as tenants who are evidently deficient in means to stock the farms properly; and parties of neither skill nor experience are too often accepted as tenants because they offer higher rents, the landlord being quite secure under the hypothec.

To the Chairman.—Before I went into that business, I was in the office of Messrs Jopp and Shand, advocates, Aberdeen. They managed several valuable estates. I know persons who have been very careless in taking tenants without sufficient inquiry, but Messrs Jopp and Shand, I must say, were not so. I have known instances where they set their faces very strongly against taking unsuitable tenants, and recommended the proprietor to take a tenant of practical skill rather than men who wanted it, but who offered higher rents. But I know numerous instances of a very different kind. In one case a tenant entered into a farm, and managed it so very badly, that the proprietor of it in disgust gave him £70 to quit. In a short time after a much larger farm came into the market, and that tenant, along with others, offered for it. He offered a higher rent than the others, and a rent which those who knew the farm knew to be too high. The factor made every inquiry about him from the factor for the previous landlord, and got the whole particulars as to his having been got rid of, but notwithstanding he accepted him, and he was not long there till he was sequestrated, and he has been three times sequestrated for rent since 1862. The facts connected with his first farm were not generally known. We have lost money by that tenant. We have tried several times to get payment of our account, but the proprietor always comes in before us. The man is generally under sequestration the whole year through. It is since our dealings with him that we got that information about him.

To Mr Hope.—The farm is not under judicial management. It so happens that the factor for this tenant's first landlord has now the management of this other estate, and I got the facts from him. No one knows that sequestration has been used, and credit may be given to the tenant in ignorance that such sequestration has been used.

To Mr Curror.—The two farms were about six miles from each other.

To the Chairman.—We have lost about £15 by that farmer. We have ceased to deal with him.

To Sir W. Gibson Craig.—*Q.* You have stated that sequestrations are very common in the counties you deal with; how does it happen that you have only had to rank on thirty sequestrated estates of farmers, when you have sent out 7000 accounts in a year?—*A.* I don't think that thirty sequestrations in a year is a small number. On one property, upon which our company gave tenants credit, in the year 1852 and 1853 there were no fewer than ten tenants sequestrated and rouped out by the proprietor. If the year is a bad year, we should have a plentiful crop of sequestrations; if the year is good, the tenants manage to tide over.

To Mr Curror.—I should suppose the great majority of farms in Aberdeenshire are small.

To the Chairman.—In general the farms are back-rented, but there are

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several very important exceptions, and I think there is a tendency to make the rents payable at the legal terms. The rents on the estate of Echt, belonging to Lord Lindsay, have for a considerable number of years been made payable at the legal terms. On Sir A. Bannerman's estates the rents are payable at three terms a year. A member of one firm, who has charge of a number of the best estates in Aberdeenshire, has adopted the principle, in every case where he renews a lease, of making the rent payable at the legal terms. I have a note of about twenty estates in Aberdeenshire where the rents are payable at the legal terms. On one of them the rent is forehanded, and the rental of that property is nearly £3000; but in the majority of cases the rent is payable the first half at Martinmas after reaping, and the second half at the Whitsunday following. That system is very bad for us, because, where the tenant does not pay his account on getting it rendered, we have very often had the excuse made to us that he has not paid his rent, and that he must pay it before anything else.

To Mr Curror.—I think the abolition of the law would be advantageous to the tenants in Aberdeenshire. I don't think they could pay fore-rent generally; but I have more confidence in the proprietors in Aberdeenshire than to think that they would fore-rent their farms. They would certainly select tenants of sufficient practical knowledge and skill to manage their farms properly, and I don't think they would have such suspicion of them as to suppose that they would not pay their rents regularly. I have no doubt the landlords would have no difficulty in letting their farms to such men.

To the Chairman.—*Q.* What would become of those who could not pay forehand rents?—*A.* If they were tenants worth having, the landlord would be as safe as any other parties dealing with them. I don't think the landlords would fore-rent generally. *Q.* Might not all the other dealers get payment of their accounts before the rent became due?—*A.* The landlord is in a much more favourable position than others. A tenant takes a farm to make a living by it, and he has a reasonable expectation of doing so; the proprietor can satisfy himself as to his means and skill before admitting him, and in any case the tenant would make an effort to pay the proprietor before any of the rest of his creditors. The proprietor can at any time enforce any of the irritancies in the lease. There are many ways in which he can get at the tenant, while the other creditors cannot; and in that view the tenant will always try to stand well with the proprietor. *Q.* Is it your experience that it is quite easy to enforce the irritancies of a lease? *A.* Yes. I have known a case where a tenant, by miscropping or interfering with the rotation of his farm, was come down upon at once; there is no difficulty as to that.

To Sir W. Gibson Craig.—I would give the landlord no preference whatever over other creditors. He cannot demand payment of his rent till it becomes due; but neither can we demand payment of our account till it is due. We might ask it, but in practice we don't do so. Our policy is to stand well with the tenants. If we attempted harsh measures, it would soon tell against us. *Q.* If you had doubts of a tenant's solvency, would you not enforce payment of your account before Martinmas?—*A.* Yes. *Q.* Would that not give the manure-dealer a preference over the landlord?—*A.* It might in a particular instance. *Q.* But whenever you chose to enforce that power, would it not give you the means of getting your account whether the landlord's rent was paid or not?—*A.* We would have the power certainly, but, if we attempted to exercise it when the law was abolished, the other creditors would at once come in. Suppose we had a bill, and attempted to do diligence on it, the recording of the protest on that bill is published, and every creditor of the tenant knows it; that would bring in the other creditors. *Q.* Would not the tenant often rather pay your account than have diligence taken out against him?—*A.* He might or he might not; very often he would not.

To the Chairman.—*Q.* If diligence was taken out against him, the result would be that all the other creditors would come in in preference to the landlord, if his rent was not due?—*A.* The landlord would be entitled to rank for the rent of that half-year.

To Sir W. Gibson Craig.—*Q.* But you would have the power of getting your account paid?—*A.* I should think there could be very little danger of loss to the proprietor in any such case; because the stocking, etc., that a tenant would require to put upon his farm, is of much more value than his liabilities to the landlord, so that the landlord would have a good chance of payment from that.

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Q. Do you assume that all the tenants of Scotland are to have abundant capital, and that they are never by any chance to lose that capital during their lease?—*A.* If a tenant has not a proper stocking on his farm, he irritates his lease. *Q.* May he not indulge in cattle-dealing, or other speculations, and lose his capital, so that every creditor might then be paid except the landlord?—*A.* He cannot lose his crop or his farm implements, which are of considerable value. He has his grass and his turnips and his manure, which are always of considerable value. If the landlord accepts a tenant, he ought to take some risk with him. *Q.* Does anybody lend property to any one without taking security?—*A.* Our capital is given to a tenant without security. *Q.* But you don't lend your capital for nineteen years?—*A.* Neither does the landlord; because, if the tenant fails to fulfil the prestations in the lease, it may be put an end to. The landlord cannot lose his revenue for nineteen years. He may lose half a year's rent at the utmost,—certainly not more. *Q.* Do you suppose that landlords would let their farms without any security whatever from the tenants?—*A.* I do; they have a very considerable security in the amount of the tenant's capital. The landlord has his ground-officer, who sees if the tenant is displenishing the farm; no other creditor has the means of ascertaining what he is doing. *Q.* If you abolish the law of hypothec, the tenant may sell the whole crop in his stackyard to the manure merchant or anybody else before Martinmas?—*A.* That is very unlikely.

To the Chairman.—I am in favour of the total abolition of the law, but I would reserve the rights of parties under existing leases. I am not aware if that is the opinion of the Aberdeen committee; I only speak for myself.

To Mr M'Lagan.—I do not understand the maritime hypothec so well as to be able to speak upon it decidedly. So far as I understand it, I would not be in favour of doing away with it, because it would involve very serious difficulty if a vessel were putting into a foreign port for repair. *Q.* Supposing a person sends goods in a vessel, the owner of the vessel has a preferable claim on these goods for the freight of them; would you abolish that preference?—*A.* No, I would not. *Q.* But you are in favour of abolishing the lien over corn lying in a warehouse?—*A.* Yes. *Q.* Would you approve of a proposal which, in the event of a tenant not paying his rent, or acting up to the stipulations of his lease, gave the landlord power to remove him from the farm on three months' notice?—*A.* Yes, I would.

To Mr Fleming.—Our company is a joint-stock company, with a good many partners. I could hardly state the rate of dividend which they pay. *Q.* I suppose we may assume that it is considerably above 3 per cent.?—*A.* Yes.

To Mr Curror.—The £90,000 are our whole sales of manure, but do not include grain.

By Mr Carnegie.—We are shipowners also. We require vessels to bring us lime, coal, and manures. We allow the usual freight on such voyages, and that we reckon our profits upon the shipping. We also employ ships belonging to others.

To Mr Fleming.—*Q.* You have said that you think the landlord should have no preference for his rent, but that a heritable creditor should have a preference for his interest?—*A.* That is so. *Q.* What distinction do you draw between the two cases?—*A.* I hold that the transaction between landlord and tenant should be regarded as a commercial transaction. *Q.* But what distinction do you draw between the case of a landlord who lends the use of his land to a tenant, and the case of a person who lends a sum of money to a landed proprietor in consideration of getting a certain rate of interest?—*A.* I have not considered sufficiently how I would give a preference for his interest to the lender of money upon land, although I think there is a distinction. *Q.* Why would you give the lender of £10,000 a preference for his interest, and refuse the proprietor of an estate worth £10,000 a preference for his rent, which is his interest?—*A.* Capital invested in land may and does increase. Money lent upon it does not. But in fairness I am afraid I must give up the preference in both cases. *Q.* Then you think that a person might be expected to lend £10,000 on the security of the property for the principal sum, but that he ought to have no preference for the interest of that sum?—*A.* Yes. I cannot say that thirty rankings out of 7000 customers is a large proportion in mercantile cases, but that is solely the result of the care that we bestow in selecting our customers. I think the number of failures in the case of farmers is increased by the law of hypothec in this respect, that tenants who are not suitable in regard to means

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are admitted to farms, and fail in consequence; and my other objection is to the very inadequate dividend which we get in such cases, compared with what may be got in the case of a mercantile sequestration. There are frequently accommodation bills ranked on the estate on the failure of tenant-farmers; but bankers require additional securities to what they would require from mercantile men. There may be circumstances in which it might be proper enough for farmers to give bills; but their transactions do not necessitate the giving of bills in the same way that mercantile transactions do. I would not consider it an evil that farmers should get an increase of legitimate accommodation, which I think would be the case if the law of hypothec were abolished. There is not a roup in the county of Aberdeen at which bills are not granted for the purchase of cattle and implements, and bills are also granted for the rents of grass parks taken for the season. Very often the names of other parties are required to these bills as cautioners. But I don't regard these as accommodation bills, because these parties know that value has been received. I regard an accommodation bill as rather a bill merely for the purpose of raising money. I think it is legitimate enough to grant a bill in the case of sales such as I have referred to. The bill generally states what it is granted for, and the banks calculate their chances of getting payment from the number of names on the bill. *Q.* Supposing the law of hypothec were abolished, would bankers not have the same difficulty in giving accommodation to tenants that they have now, inasmuch as they are quite aware that the bills presented for discount must necessarily be accommodation bills on the part of one or other of the parties whose names are upon them?—*A.* I don't think they would have the same difficulty; because, even in the case of a tenant's failure, they could calculate upon getting a greater dividend than they do at present, and therefore I imagine that, like other parties dealing with the tenant, they would be inclined to give him more credit than they are at present doing.

To Mr Hope.—When a landlord lets a farm to a tenant, he may be said to give him the use of capital which is indestructible. The tenant cannot pay the rent without risking a considerable amount of capital on the cultivation of it. Several farmers have told me, that to stock a farm properly in Aberdeenshire would take about £10 an acre, and I consider the landlord has good security in that alone. That is very different from a bondholder lending money on an estate.

To Mr Carnegie.—On Sir Alexander Bannerman's estates in the Buchan district of Aberdeenshire,—viz., Crimonmogate, Logie, and Crimond,—the rents are payable by equal instalments in July, November, and April. The tenants enter at Whitsunday to the houses, the turnip and grass land, and at Martinmas to the corn land. They pay the first instalment of the rent in July, the year after their entry. They enter on 26th May, but they lay down no crop for that year. The outgoing tenant has the crop; and they pay the first instalment of their rent for their crop in July of the year in which the crop has been sown. They pay one-third of their rent before reaping, and they pay the whole rent before they have realized the crop. In other cases, where the rent is payable at the legal terms, the tenant pays the first half before he has realized any of the crop, and the second half while he has a considerable part of the crop on his hands unrealized. The tenants on the estate of Echt are as good as any in the county, and there is no difficulty in getting offers for the farms when they come into the market. The system of paying the rent at the legal terms has been in operation on the estate of Echt for upwards of twenty years. In other instances that system has been introduced. One of the best farms on Donside, belonging to the Earl of Kintore, has been let recently, the rent being made payable at the legal terms. It was formerly back-rented. The farms on the estate of Echt are principally arable; so are Sir A. Bannerman's. *Q.* Do you know whether there was a great change of the tenants at the time that the system was altered on the estate of Echt?—*A.* I am not aware. I do not know when it was introduced, or what changes may have been made. On the estate of Kinmundy the proprietor arranged with the tenants for forehand rents, and they enter at Whitsunday and pay at Martinmas following. I am not aware that there has been any change in the tenants on that estate, and they are as good as any in the county. Their farms are arable. Before that arrangement was made they paid the first half-year's rent at Martinmas, eighteen months after entry. The rental of that estate is nearly £3000, and the farms are from 100 to 350 acres in

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extent. I am decidedly in favour of having sequestrations for rent made public. I should say that, were the landlord to have the power of sequestrating for any part of the rent, it ought to be done within thirty days of each term at which the rent fell due, and then his right should cease.

To Mr Fleming.—I am decidedly opposed to the right of the landlord to follow grain, whether sold by sample or in the way in which we purchase it; but, in order to prevent collusion or fraud, I would make delivery necessary. If the grain were left on the property, I think any creditor who was using sequestration should be entitled to sequestrate; and, if the right of hypothec were retained, the landlord should have the right to sequestrate it while there. I do not think a tenant is more likely to be fraudulent in his dealings than other people; but I think that ought to be the case, even if the grain had been paid for, as no one is bound to pay for an article before delivery.

(61.) Mr ALEXANDER MITCHELL.

Alexander Mitchell.

To the Chairman.—I am a manure and grain merchant at Newburgh, sixteen miles from Aberdeen. I quite concur in Mr Copland's evidence, and there is no point on which I differ from him. I have very large dealings with farmers—£70,000 or £80,000 a year—in the sale of manures and the purchase of grain. I have been a farmer for twenty-eight years. As a farmer I never suffered loss under the law of hypothec. A tenant cannot suffer except in the competition for farms. I think competition prevails in the case of small farms much more than in the case of large farms. In my experience of men rising from being ploughmen, and taking small farms, in five cases out of ten they have been failures. The £70,000 or £80,000 which I mentioned are both my sales and purchases. My sales to farmers may be between £30,000 and £40,000. My losses are not large, probably 1½ per cent. I have been very fortunate in that respect, but I require to exercise great caution. I don't say that there is any hardship in that. I don't think landlords exercise the same caution in the choice of their tenants.

To Mr Carnegie.—In my neighbourhood the usual term of entry to farms is Whitsunday, and the rents are payable eighteen months afterwards. On entering they pay for grass, dung, etc., and in many cases for fixtures and houses, but the houses are rapidly becoming the property of the proprietor. The amelioration system prevailed to a great extent, but it is fast going out.

To Mr Hope.—I don't think sufficient caution is exercised by landlords.

To the Chairman.—I say that as a general rule. There are exceptions; but, taking small proprietors generally, they don't exercise caution.

(62.) Mr WILLIAM DAVIDSON.

William Davidson.

To the Chairman.—I am a grain merchant in Inverury. I concur in Mr Copland's evidence. I am a member of the Association on the Law of Hypothec, and I think we speak the sentiments of the whole of the committee. I am agent at Inverury for the Aberdeen Lime Company, who deal in manures. As a grain merchant my purchases of grain last year were 63,000 quarters, amounting to about £52,000. I have never had any cases in which I was asked to repay the price of grain, but on a late occasion one of my agents refused to pay a farmer for his grain until he should produce his rent receipt, as it had been reported that he was in difficulties. This led to high words, and was very unpleasant. I know no case in which repetition was actually demanded. I have been in business for upwards of twenty years. It has been suggested that grain merchants should cause the tenants to produce their receipts for rent before paying them for their grain, but such a practice could not be followed out. I have agents and servants at twenty-eight different railway stations taking delivery of grain, the great bulk of which comes without having been previously purchased, and it is quite impracticable for my agents or servants to ask the farmers' servants to produce their rent receipts. I never had a claim for repetition, and therefore I think there is no necessity for such a law. As agent for the manure company I think I sell about £20,000 worth at one branch. I should say we have lost from £100 to £200 a year by bad debts. I don't attribute that entirely to the law of hypothec; but the fact of landlords in so many cases of bankruptcy getting

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nearly the whole effects in payment of their rent, and leaving little or no dividend to merchants and tradesmen, is our grievance. I think all a tenant's creditors should share alike.

To Mr Carnegie.—I have been a small farmer for two years. My farm extends to fifty acres. I am a tenant of Lord Kintore. My terms of payment are Candlemas and Lammas after reaping, but Martinmas and Whitsunday after reaping are the more common terms in the district. The farmers in my neighbourhood, to whom I have spoken on the subject, seem to think that there is too much competition for farms, and that there would not be so much competition if the law were abolished.

To Mr Curror.—I have no doubt that the competition is caused to a considerable extent by the landlord's right of hypothec.

To the Chairman.—I know the case of a farmer who became bankrupt in 1863, after occupying a farm for five years. The landlord was paid in full, and the farm was so much improved by the tenant that it was relet at an increased rent of £50; so that the landlord got all his rent, and was benefited to the extent of £50 a year additional for fourteen years—the remainder of the lease, while we got some 8s. per pound. These improvements were made with borrowed money and with unpaid manures. The amount of our account was between £40 and £50.

To Mr Fleming.—I think there were some accommodation bills in that case, but I cannot speak positively. I know another case exactly similar:—a son-in-law of the same person took a farm, and there was about the same dividend to the other creditors, and about the same rise of rent to the landlord. Upon the same estate a tenant became bankrupt about the same time. We had a claim of £68 against him; the landlord was paid in full, and we got nothing. In the case of the first two tenants whom I have mentioned, it was ascertained that they had entered their farms with no capital whatever; and, if the landlord had been at any risk, he would have seen to that. We presumed that, as they had got these farms, they were men of some substance. I could give numerous cases showing the bad effects of the law, of the same character as those in Mr Copland's evidence.

(63.) Mr ROBERT KEMP.

Robert Kemp.

To the Chairman.—I am a grain merchant in Aberdeen. I have been upwards of thirty years in the trade. I am chairman of the Aberdeen committee on the law of hypothec. I think I represent the general views of the committee. I have extensive dealings with farmers as a purchaser. I purchase about £40,000 worth of grain in the year. I have had only one case of a claim made against me for repetition of the price all the time I have been in the trade. The grain was followed in that case within a few hours of its delivery, but by a chance the seller had not got payment, so that I did not lose anything. I never had to repay. I don't know whether the tenant in that case had been sequestrated. Although I have had only one such claim made against me, it would be but small consolation to me, if I should have to pay £100 worth of grain twice, that I had been called upon to do so only once in my life. It is no compensation to the Messrs Allan of Ayr for having to pay Mr Graham Barns' meal twice, that perhaps 500 other buyers had not been so unfortunate. I am in favour of the total abolition of the law of hypothec. I don't see why the rights of parties under existing leases should be preserved. The repeal of the Corn-laws, which it was thought would affect tenants, was made to apply to existing leases, and I don't see why this change should not do so, though it is presumed to be against the landlord. *Q.* Personally, have you experienced any inconvenience from the law?—*A.* Of late years I have felt more apprehension in dealing with what may be called weak parties, and that is a great detriment to trade. I think it is more luck or chance than caution which has preserved me from loss. I don't know any one in Aberdeen who has suffered from grain being followed, but such a case may have occurred. I have not made any special inquiry about that, but I think it is sufficient that the power of following exists. *Q.* In what other way have you experienced inconvenience from the law?—*A.* I have not experienced any particular inconvenience. *Q.* On what grounds do you advocate its abolition?—*A.* As a matter of public principle, and on the ground that no man ought to be subjected to an

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injustice in a commercial country like this, so patent and palpable as that, when in the exercise of his trade he has made a *bonâ fide* bargain, he should be made to repay for the benefit of third parties. I also object to the law, because I think rents and other charges have risen so high, that we shall have a greater number of weak farmers, and that there will be more risk to the grain merchants. *Q.* But your views are founded more on apprehension for the future than on the experience of the past?—*A.* They are.

To Mr Hope.—In the state of agriculture in Aberdeen, the use of manure of from one-third to one-half of the rental has become a necessity; and therefore I think the manure merchant is as much entitled to protection as the landlord who supplies the land. I look on land as a commodity, the same as any other mercantile commodity.

To the Chairman.—I think a man who has land to let is in the same position as a man who has money to lend. A person who lends money on a heritable bond is protected by the law; but that is a personal covenant between two parties. In the case of the landlord's hypothec the law interferes whether there is a covenant or not. *Q.* Can you point out any other difference between the preference of a creditor in a heritable bond, and the preference of the landlord under the law of hypothec?—*A.* In the case of the heritable bond it does not affect third parties. *Q.* If a man becomes bankrupt, does the preference of the heritable creditor not affect the interests of the other creditors?—*A.* The heritable bond is made public by registration. I don't think the evils of the law of hypothec would be remedied by making sequestrations public. I don't think the two cases which have been put to me are at all similar. When a man lends money, he does so with his eyes open, and in full knowledge of all the circumstances. I believe a great many people don't know the risks they run, in dealing with tenants, from the law of hypothec.

To Mr Curror.—I think the law of hypothec has a tendency to raise the value of land. Aberdeenshire was farmed in 1856 by 7360 tenants, farming 488,000 acres. Its rental in 1815 was £325,218, and in 1864 it was £629,000. From the security afforded to landlords by the law of hypothec, they have not the same motive for inquiring as to the sufficiency of their tenants.

(64.) Mr JAMES W. BARCLAY.

James W. Barclay.

To the Chairman.—I am a general merchant and shipowner in Aberdeen. I am tenant of the farm of Auchlossan, on Deeside, thirty miles from Aberdeen. I am also a town councillor of Aberdeen. The extent of my farm is 170 acres arable, and 50 rough pasture. My rent is £210, payable one-half at Candlemas and one-half at Lammas. The entry is at Whitsunday to houses and grass, and at Martinmas to the land, and the rent is payable eighteen months afterwards. I would approve of paying the first half-year's rent at Whitsunday, a year after entry, but the longer credit I get the better, on the same terms. I have no doubt tenants have to pay for the credit they get in increased rents. I would rather pay at an earlier term, if the rent was reduced in proportion. I have been a farmer since 1860. The abolition of the law of hypothec would improve a farmer's credit with bankers. From my experience a farmer has much greater difficulty in getting money than a mercantile man. I do not know that I have suffered any other inconvenience as a farmer from the law of hypothec. As a merchant in Aberdeen I don't purchase from farmers; I purchase from dealers. I am a shipper chiefly, and buy cargoes of grain free on board. As a grain merchant I have no dealings with farmers. I have very little experience of the law of hypothec in my business, because I have little to do with farmers.

To Mr Curror.—When I entered, the land was partially cultivated for turnips; and I paid the tenant who went out for the labour in cultivating the land, for the farmyard manure, for the grass-seeds he had sown, and also for the first year's grass. That is the general entry in Aberdeenshire, I believe.

To Mr Fleming.—I was not bred a farmer. I suppose I am what some of my agricultural friends call an outsider. My farm was advertised before I took it. I was the only offerer for the farm.

To the Chairman.—I wish to state that, supposing there were no law of hypothec, there is very good security to the landlord in the permanent improvements

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on the farm. I think the law of hypothec should be entirely abolished. I would reserve the rights of parties under existing leases. I do not think any modification of the law would be so desirable as the total abolition. I do not think the tenants of Aberdeenshire would think it a hardship to pay their rents six months sooner. I think that applies to tenants of all classes. I do not think the system of forehand renting would have the effect of depriving any large number of the present tenants of their farms at the conclusion of their leases. I do not think that the abolition of the law would act against men of good character and skill possessed of moderate capital, because such are the men that could afford to pay the highest rent upon the farm, and such would be looked for by the landlord. They would require more capital than at present, if fore-rents were resorted to, but they would have better credit. I do not think that landlords who looked after their estates would have recourse to the system of fore-renting. I have had no experience as a land-agent or factor in advising landlords. Leases are usually very stringent, and, in the case of failures, landlords, being sure of their rent, are frequently indifferent what dividend the estate yields, and throw obstacles in the way of winding it up in such a manner as would be fair to all parties. The consequence is that landlords can, and not unfrequently do, make bad worse. I knew a case in the neighbourhood of Aberdeen where a tenant entered a farm at Martinmas 1859, under a lease excluding assignees legal and conventional, and binding the tenant to consume the green-crop on the farm. The rents were payable at the legal terms, one half at 20th June after sowing, and the other on 20th December after reaping. On 6th July 1861 the landlord sequestrated for crop 1861. At this time the tenant was due £170 for rent of crop 1860, for which the landlord had lost his right of hypothec, not having used sequestration in time. On 30th September the landlord and his agent, who manages for several large estates, met the tenant on the farm by appointment, and bought of him £54 worth of cattle, for which the tenant received a receipt as for arrears of rent. On 26th October mercantile sequestration was applied for, and on 6th November the trustee was confirmed. On 18th November the trustee asked the landlord to take the dung and crop on the farm at a valuation, as he could not sell it under the lease; to which the agent replied on the following day, that he would advise the proprietor to take them at a valuation, provided the trustee paid the arrears of rent over which the landlord had lost his right of hypothec. On 11th December, the trustee having asked the landlord for a note of preferable rent, the agent replied on the 12th, declining to take the preferable rent, and intimating the raising of an action of caution and removing. The trustee answered that he did not maintain a right to remain on the farm, and that the rent would be consigned; which was done, and sequestration was recalled. On 14th December the agent wrote, saying he was preparing a summons of removing, and intimating a claim of damages for retaining possession of the farm; and on the 17th the trustee again asked the landlord to take the dung and green-crop at a valuation, as he was to advertise them for sale. The trustee could not remove the dung or green-crop off the farm, and he could not enter on the farm because assignees were excluded by the lease. The agent having replied that they would only be taken on former terms, the sale was advertised on the 17th, and on the 23d interdict against the sale was served. On the 27th sequestration for crop 1862 was used. On the 28th intending purchasers assembled, but were dismissed. On 9th January an action of ejection was served. Shortly after matters had thus come to a dead-lock, the landlord died, when a new agent was appointed, who arranged to give the trustee the privilege of a waygoing tenant; but the estate, which showed 9s. in the pound at the date of sequestration, only yielded sixpence. An eligible tenant must have capital or credit equal to at least seven times the rent. A good tenant entering a farm has always improvements to make, and permanent manures to put into the soil, which it will take the whole course of the lease to recover. I calculate that, with the exception of some rare cases, when the farm falls into the tenant's hands in high condition, the expenditure during the first two or three years of the lease ought to be at least two rents. In my own case it has cost me for permanent manures, and to put the land in condition, at least four rents; but I got the farm in very bad order. I expect this expenditure will repay me. If not, I am sure that I would be worse if I had not made it. In the event of the tenant's bankruptcy the landlord reaps the benefit of these improvements, and, although he had to take a dividend on his rent he would be compensated by a

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higher rent from the successor, provided the bankrupt's rent had not been too high. The law of hypothec does not protect the landlord in the long run from a bad tenant. It does not prevent bad farming. Leases are almost invariably very stringent—banefully so; but I never saw one which could prevent a bad tenant from exhausting his farm. I do not think the farmers in Aberdeenshire would feel it a hardship to pay their rents sooner. The rent is only a seventh or eighth of their capital, and any disadvantage would be more than compensated to the tenant by improved credit.

To Mr Hope.—In the case near Aberdeen, to which I referred, the landlord refused to take the manure at a valuation, and the trustee could not remove it, nor enter on possession of the farm, because assignees were excluded under the lease. If the law of hypothec had been abolished, the landlord would have acted differently, because he would have been interested in the result of the estate; but, with the law of hypothec, the landlord was sure of his whole rent, and he had no further interest. That case goes against allowing clauses in leases prohibiting assignees. It would be much better if the clauses in leases prohibiting assignees were excluded in many cases.

(65.) Mr ALEXANDER CAMPBELL.

Alexander Campbell.

To the Chairman.—I am a farmer at Blairton, eight miles north of Aberdeen. The extent of my farm is 380 acres, and my rent is £465. My entry is the same as that of the last witness, with some slight exceptions. I have experienced inconvenience from the law of hypothec in the shape of increased competition in taking a farm. I pay more rent in consequence of the increased competition. I attribute that competition to the law of hypothec, because it protects landlords, and they would exercise more caution if they had a risk to run. When I was competing for the farm, I was aware that unskilled parties were competing with me, and I had on that account to offer a higher rent than I otherwise would have done. Possibly the landlord had reference to my skill in accepting my offer, but I pay too much rent. I possibly pay £30 or £40 a year more in consequence of the knowledge that I was competing with unskilled parties. I am not aware whether I was the highest offerer, but I was the highest offerer they could accept with any safety. They would have some regard to their safety. Farmers do not deliberately take land at more than it is worth; but the competition has been so great for the last five or six years back, that unless we run a risk we could not take land. I conceive that we pay higher prices for our manures in consequence of the risks run by the manure merchants. They give us invoices with cash and credit prices when we buy manures, but we are not always prepared to pay cash. I do not think we get any credit from the landlords as matters stand. We pay as we get the crop, and our outlay up to that time is heavy apart from rent. We might be prepared to pay fore-rents were there no hypothec. I have no doubt that the extra credit, which the repeal of the law would enable us to get, would enable us to do so. The difference between paying fore-rents and the present system would not be more than the difference between the cash and credit prices of the manures—it would be something similar. It would be just as easy to pay the manure merchant ready money as it would be to pay fore-rent to the landlord.

To Sir W. Gibson Craig.—I would have the law of hypothec entirely abolished, not modified. Farmers would get credit more readily from banks if there were no law preventing them getting dividends. I am aware of farmers who get credit. I have been twenty years a farmer. I was a grain merchant six years before that. My father was a farmer. I know a case of a tenant in Aberdeenshire who had his effects regularly poinded always before Lammas, for ten or twelve years; and I know persons to whom he was due money all that time, but who were put at defiance in consequence of the tenant being poinded each year at that date. The tenant had barely sufficient stock and implements, but he managed to work his farm and to continue in it for that length of time without his creditors getting any hold of him.

To Mr M'Lagan.—The creditors might have made that man bankrupt, and thus have stopped the poinding from year to year; but the whole effects about the place would not have done more than cover the two years' hypothec, and the expenses of winding up, so that the man really managed to work on in a

Alexander Campbell.

sober way independent of his creditors. I do not think the landlord would have been a party to this, but the tenant would so manage to keep his rent unpaid as to induce the landlord, knowing he was in a weak state, to protect himself, and hence the nature of the law was at fault, and not the landlord. I would have the law abolished at once, and apply the repeal to existing leases. When the Corn-laws were abolished there was no word of applying protection to existing leases, and I do not see why there should be any restriction now, when the sides are turned. There are really no risks on well-managed estates. The landlords are safe in our district. Independently of the law of hypothec, our landlords are more than safe. I believe that may not be the case in other parts of Scotland; but I do not believe that on well-managed estates the landlords need be afraid of any risk with the class of tenantry they have. I do not think landlords would be afraid to trust their present tenantry. I should say that the credit even of a bad tenant would be strengthened by the abolition of the law of hypothec to the extent of the fore-rent.

To Mr M'Lagan.—I think the landlord should have no security. I cannot see why the landlord should not risk the interest of his capital in opposition to other parties risking their whole capital. I do not think it is very likely that the manure accounts would be paid if the tenant were not in a position to pay his rent. At all events the landlord only risks the interest of his capital, and the manure merchant risks his whole capital. It is just possible a tenant might pay the manure merchant and not be able to pay his rent, but that is just one of the risks the proprietor would run, and a proprietor has more means of knowing about the circumstances of his tenants than third parties would have. There is always something left on the farm, such as dung and straw. Even in the Lothians the tenants are not allowed to sell off the straw; and the straw, on the average of Scotland, would amount to a half-year's rent. I was not aware that in the Lothians the landlord gives the straw when the tenant enters; but if the tenant has eaten off his turnips, he must have consumed a good deal of his straw, and the dung would be left on the farm, and that would amount to a half of his rent. In the neighbourhood of towns landlords would run a great deal more risk, but they get more rent, and the landlord ought to run the risk of a year's interest on his capital. I cannot see that the landlord runs a greater risk than the other creditors. It is not very likely, if the tenant was in a backgoing state, that the manure merchant would be paid; and, if any tenant were suddenly overtaken with any misfortune, by lending money or becoming security for a friend, none would know when such a misfortune was about to come, and all his creditors would run equal risks. If the rent were not due when the tenant became bankrupt, a bankrupt estate is not so quickly wound up but that the rent would become due in time for the landlord to get a dividend. If a tenant dies, and the estate comes to be managed by trustees, they would not have the same interest to manage the farm judiciously. Sometimes, in cases of that kind, the farm becomes deteriorated in value; but trustees would act in the same way with or without a law of hypothec. The landlord should have no security in letting his land for nineteen years, but he can prevent the risk of getting his land ill managed by putting conditions into his leases compelling parties, in the latter end of a lease, to manure to a given extent. I would not agree that there should be a statutory irritancy of the lease, providing that, if the tenant failed to pay the rent at the proper time, or did not act up to the stipulations of his lease, after three months' notice the landlord should have it in his power to put him out. I would agree that the landlord should have it in his power to compel the execution of articles in the lease, but not to compel the tenant to leave the farm. If the tenant had expended capital on the farm to improve the soil, the irritancy would not be just; but the landlord should have power to compel the tenant to fulfil his bargain. I do not know that it is very difficult to get tenants to farm up to the stipulations of the lease. It is one of the risks that landlords run, to get bad men sometimes who will not fulfil the conditions of the lease, and they should have power to compel them to do so. If the landlord had not the law of hypothec, he would be more cautious in the selection of his tenants, and he would have a class of tenants with whom he would not run the same risk as landlords do with many tenants at present. I would not approve of the stringent statutory irritancy that has been suggested. It would be very hard upon tenants, to my mind.

Monday, January 30, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG. MR M'LAGAN.
MR HOPE. MR CURROR.

(66.) MR JOHN HIGGINS, JUNIOR.

John Higgins.

To the Chairman.—I am a land-agent and farmer in Lincolnshire. My father has the entire superintendence and management of several estates. He was appointed on one estate receiver for the benefit of creditors, and as such has the whole management of the estate. He is the general agent and superintendent of estates with a rental of £77,000 a year. He is also factor on Mr Nisbet Hamilton's Lincolnshire estates. I have been in business with him for the last twenty years, besides farming on my own account; and I am in possession of all my father's sentiments upon matters affecting general business. The size of my own farm is about 800 acres, and I pay about 30s. per acre rent. The periods of entry to farms in Lincolnshire commence in the autumn for sowing wheat. The outgoing tenant either sows the wheat and is compensated for the seed and labour, or he allows the incoming tenant to enter and sow the wheat. The entry to the fallow land is on the 1st of December under the agreement; on the 1st of March the tenant enters for sowing spring corn, except where a little time is given when the turnips are not eaten off; and on the 14th of May he enters to the home-steading and house, which completes the entry. Leases are an exception to the rule, and I may say a rare exception. The general rule is, that under strict law the possession is yearly, and terminable by six calendar months' notice in writing from either party. On well-managed estates a written agreement is considered necessary; and where there is a written agreement, it is usually adapted to the custom of Lincolnshire. There is a schedule of allowances for unexhausted improvements, and that constitutes the tenant's security against any arbitrary dismissal from his farm. By that schedule he is paid for his improvements according to a scale which is generally specified in the agreement. By unexhausted improvements I mean anything laid out on the farm from which a profit has not been derived by the tenant. The rents are payable in October, six months after the entry is completed. The crop has not only been reaped, but is the property of the incoming tenant; he has either sowed it himself, or paid the outgoing tenant for seed and labour. He does not actually pay the rent till he has reaped the crop. The second half-year's rent is payable at the following Ladyday, which is 25th March. *Q.* What are the securities which the landlord possesses for the punctual payment of his rent?—*A.* The landlord is generally satisfied with the account which is given of the candidate for the farm. If he is a very young man, or there are any circumstances which lead the landlord or his agent to feel any doubt on the subject, he frequently requires the candidate to give him the name of another person as joint-tenant. That is an extreme case; but generally, from knowing his character or reputation, or by a few inquiries on the subject, the landlord or his agent becomes satisfied that he is a trustworthy person, and lets him the farm. If he falls in arrear, the landlord has his remedy under the English law of distraint. Under that law the landlord may, without any judicial authority, put an officer of the law in possession of such effects upon the farm as he thinks will cover the amount of the arrears. The officer takes an inventory, and gives the person in arrear notice at the foot of the inventory, that, if the rent is not paid within five days, he himself will sell the effects. The landlord may do this as soon as the rent is due, but not before the day of payment arrives. I am not aware that he has any security before the day of payment, but in some agreements provision is made that on demand the rent shall be paid quarterly; so that he has that additional security. An ordinary creditor cannot make his debt available against the tenant, till he has satisfied the landlord—that is if the rent is due. Having levied his execution, he is obliged to pay the land-

John Higgins.

lord if the rent is due. The distress can only be put in force against goods actually on the farm, except where a clandestine removal, prompted by fraudulent conduct, shall take place; but this must be for the purpose of eluding payment. I believe the landlord cannot follow goods and possess himself of them after a *bonâ fide* sale, even if the *bona fides* was only on the part of the purchaser; there must be collusion before he can do so. The landlord's power to take the goods so fraudulently removed is limited to thirty days after their removal.

To Mr Hope.—The landlord, however, runs a very great risk in following property, because the *onus* rests on him of showing that there has been clandestine or fraudulent conduct; and, if he cannot prove the fraud or collusion, he will be liable in an action of damages.

To the Chairman.—If goods are removed after the officer of the law has been put in possession, the landlord could follow them. The distress applies to everything found on the premises, whoever it belongs to; and it even goes the length of cattle sent to the farm to graze. It also applies to cattle which have strayed, provided they have escaped through the owner's negligence, and have been a night and a day without recovery being made. When I say that the distress applies to all goods on the farm, I mean that it applies to corn growing as well as to corn that has been reaped. The landlord may also distrain the goods of a sub-lessee, whether such sub-lessee has paid his rent to the lessee or not. The Act 14 and 15 Vict. c. 25 provides that growing crops seized and sold under an execution are liable, so long as they remain on the farm, for accruing or subsequent rent, but they cannot be taken possession of till the rent is due. The right of distress extends to rent in arrear for one year provided there has been a bankruptcy, but for six years provided there are no other claims urged against the tenant. The landlord does not lose his right of distress by taking security for the rents in the shape of a bond or bill. Suppose the tenant has a counter claim against the landlord, that does not affect the landlord's right of distress. *Q.* In the case of another creditor levying an execution against the tenant, and not being entitled to make it good till he has satisfied the landlord, has that the result of frequently making other persons who deal with the tenant sustain loss?—*A.* Not to my knowledge. But in our district our experience may extend over forty years, as my father's has done, without bringing the factor to the cognizance of more than five or six cases where the law of distraint has required to be used. I have been in business for nearly twenty years, and I have only had one case where I had to recover rent through the arbitrary process of distraint; and I have a statement in my father's handwriting in which he says, 'Our receipt of rents for the crown and other landlords in England amounts in the aggregate to £77,000 per annum, and for a period of forty-seven years we have only had occasion to resort to the law of distress six or seven times. For the rents due up to last October, the whole amount of arrears involved in these estates yielding £77,000 of rent was under £10.' As often as a fresh rent accrues, the landlord can distrain if he has not included enough in his inventory.

To Sir W. Gibson Craig.—The landlord's rights under the law of distraint are preferable to those of all other creditors; and whatever the distraint may produce belongs to the landlord, including the expense of distraint.

To the Chairman.—If the landlord's inventory includes more than enough to pay him, the balance is returned to the tenant. Until the landlord has distrained, any other creditor may, through the sheriff, bring an execution; but, if this is after the rent is due, the sheriff must refund to the landlord. Suppose another creditor brings an action before the rent is due, the landlord would only be an ordinary creditor, and would have nothing to recover, because his rent was not due. The holdings go on from generation to generation on the large estates in Lincolnshire. On the estates of which I have partly the management it is the custom for farms to descend from father to son; and, in a case where a woman is left a widow, she is frequently allowed to retain the farm under trustees till her son reaches his majority. Rents have gradually risen. In my opinion the tenant expends money on improvements with as perfect security as if he had a lease, the schedule of unexhausted improvements being his sheet-anchor which he mainly relies upon.

To Mr Curror.—The landlord has only the right to a preference for one year's rent, provided the tenant is made bankrupt. Woodfall on 'Landlord and Tenants' says:—'Before an act of bankruptcy, the landlord may distrain for all the rents due; after the declaration of bankruptcy, only for one year,'—in other

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words, no distress for rent shall be available for more than one year after filing the petition for bankruptcy.

To Sir W. Gibson Craig.—Under all the agreements the landlord has power to give six months' notice to the tenant to quit the farm.

To Mr Hope.—The six months' notice must be six months previous to a term of removal. I believe the present law dates from the time of the Saxons, among whom there was a custom of retaining a pledge, and I believe it has worked well in England.

To Mr M'Lagan.—My father has the management of one estate in England on which there are leases for twenty-one years, and the law is the same with reference to distraint as in year-to-year tenancies, with slight exceptions; but, on non-payment of the rent, the lease becomes void—generally fourteen or twenty-one days after each half-year—if payment is not made. In a crown lease which I looked at the other day I find that the tenant getting into arrear makes the lease void. One great security which the landlord has for the recovery of his rent is what is called tenant-right; because, if a tenant under the schedule of allowances makes a large bill, that is a security to the landlord, because the tenant cannot claim it from the landlord until he has paid his rent. Waygoing crops were at first intended as a security for rent; but the landlords are now doing away with these, feeling that they no longer require a security in that form, because they have a good security in the power they have to retain payment of the tenant's account for unexhausted improvements.

To the Chairman.—The tenant's bill for unexhausted improvements is subject to the scrutiny of valuers appointed on the part of the landlord and the tenant, and is settled by them or their umpire.

To Mr Hope.—There are instances in Lincolnshire where the entries are at Michaelmas, but the terms which I have already stated are generally preferred. The entry which I have described, though beginning in autumn and not being completed till May following, is technically a Ladyday entry.

To Mr Curror.—The outgoing tenant is paid for all the ploughing done before he goes out, which is for the benefit of the crop to be reaped by the incoming tenant.

To Mr Hope.—It is not customary for tenants to let grass and turnip crops to other parties. The tenants prefer feeding their own stock on the land, and our agreements provide for the crop being consumed on the premises. It is considered a disgraceful thing to bring in the stock of other parties, because it shows that the tenant has not money enough to stock his own farm. In many cases power is reserved in the agreement to collect the rent quarterly.

To the Chairman.—After the distress is levied the landlord must sell at the expiration of five days.

To Mr Hope.—The appraising takes place five days after, and the sale takes place at once after that. The law requires the landlord to give five days' notice in case payment should be tendered, and the sale can only be delayed after that by a written agreement signed by both landlord and tenant. We do not generally collect the rent till a month after it is due. I am anxious to state that, with reference to our law of distraint, the largest dealer in cake and bones in our immediate neighbourhood has informed me that he has been connected with farmers for nearly forty years as a dealer in cake and bones, that he has very heavy accounts with them, and that he has never known any difficulty to arise from the position of landlord and tenant, and the power of the landlord to distrain; that the law of distraint certainly does not require revision in the county of Lincoln, and that the interest of the trader is not more affected than is usual in the general course of trade. The improvement allowances are not made for the purpose of affording security to the landlord, but as the best mode that can be devised of encouraging good and liberal management. It is, however, an indirect security to the landlord. In twenty-one years the tenant is supposed to balance matters so nicely as not to leave the balance of account against himself; but, when he is liable to be turned out at six months' notice, he requires something to prevent the landlord from getting the benefit of so large an expenditure. I should most unequivocally prefer our system with the claim of allowances to the system of leases. I don't think the tenant-right system is necessary where there are leases.

(67.) Mr JAMES MARTIN.

James Martin.

To the Chairman.—I am a land-agent and tenant-farmer at Wainfleet, near Boston in Lincolnshire. I am also extensively employed as a land valuator. I concur generally with Mr Higgins' evidence. The terms of entry in our county differ; some are at 25th March, some at 6th April, or new Ladyday and old Ladyday. Where the agreements contain provision for quarterly payments, the right of distress may be used when the quarterly term arrives. Leases are the exception in Lincolnshire. In Oxfordshire I know there are some cases in which there are leases for seven, fourteen, and twenty-one years, and these leases contain a provision that non-payment of rent shall, at the option of the landlord, terminate the lease,—within fourteen or twenty-one days generally. We don't collect the rents due on 6th April till July, and those due on 6th October we collect from November to January. My rent is due on 25th September, and I don't pay it till February. The right of distress exists for the whole of that period. The improvement allowances are expressed as follows in an agreement on one of the estates for which I am agent:—'To be allowed on quitting, where a corn-crop has not been taken, for all the bones, or other artificial manures used in the last year; also half the linseed-cake consumed by cattle or sheep on the said farm, providing there be no more used than the average of the three preceding years, and half of the same has been used in the straw-yard. No underdraining to be paid for unless sanctioned by the landlord or his agents, and done at least three feet deep, and with pipe-tiles of not less than two inches bore; when so done, and the tenants finding tiles and labour, to be allowed on a seven years' principle—no cartage to be paid for excepting done in the last year of the tenancy. Lime and marling to be allowed on a five years' principle. The bills for underdraining, liming, and marling to be examined and approved by the agents the next rent-day after the work is completed. Labour on summer or dead fallows on lands marked heavy land in schedule, but not otherwise, to be paid for, providing the land has been properly ploughed four times, and the amount not to exceed two pounds per acre. No rent, rates, or taxes to be allowed.' That is a specimen of the covenant added to the agreement for the purpose of carrying out the tenant-right. The seven years' principle deducts one-seventh each year, so that in the eighth year the tenant will get nothing.

To Mr M'Lagan.—There is no reference made to the quality of the bones or oil-cake, only we don't admit cotton-cake. The farmer would get the same for boiled bones as for good bones that had not been boiled, supposing that he had used them for three years; but all the accounts are produced to us, and we pay according to the real value. All accounts must be paid before they are allowed by the landlord.

To Mr Hope.—I should consider £10 an acre of capital necessary for taking a farm of 500 or 600 acres. The quantity of land in grass varies very much; on the average, about a third is pasture.

To Mr Curror.—The extent of my farm is 900 acres; and my father and brothers farm 2400 acres.

To Mr Hope.—As to the rotation of crops, some farms have half corn, quarter seeds, and quarter turnips; others three-fifths corn, one-fifth seeds, and one-fifth turnips. We leave it in the option of the tenants to take the corn as they like. The five-field course is turnips, barley, seeds, oats, and wheat; the six-field on deep soil is half white-corn, one-sixth seeds, one-sixth turnips, one-sixth pulse-crop (beans, peas, tares, or vetches). The rotation there is not to have two white-crops together,—turnips, barley, seeds, wheat, pulse-crop, and then any white-crop.

To Mr M'Lagan.—It is very common in England in the four-course to have wheat after seeds, and also in the six-course. Tenant-right is increasing to a great extent.

To Mr Hope —The claims of an outgoing upon an incoming tenant generally amount to £1 an acre on a fair farm, with two-thirds arable land.

To Mr Curror.—In all our agreements there are stipulations for the incoming tenant getting possession of the stables and barns at Martinmas. On some estates the tenant on quitting is allowed the value of the manure made on the farm, but that is not general, and it is being done away with very fast. We pay for the oil-cake and artificial manures instead; because a person, who con-

James Martin.

sumed his straw without any artificial food with it, would get nearly the same value for his straw as if he consumed artificial food with it.

To Mr Hope.—We consume all the turnips on our fields, or nine-tenths of them. No allowance is made for that.

To Mr M'Lagan.—Where there are leases the tenant-right system is also practised generally, but not always. It is principally in the new leases, and not in the old ones. My father and I, for twenty years, have only levied one distress on a farm. We are more subject to loss in towns than in the country. If, on demanding a tenant's rent, he cannot pay, and I think he is going clandestinely to remove his goods, I can fill up a paper at once and hand it to any man whom I like to employ as bailiff, and seize the articles.

Monday, February 13, 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR HOPE.
HON. MR CARNEGIE.	MR M'LAGAN.
THE LORD PROVOST OF EDINBURGH.	MR CURROR.
MR MURRAY.	

(68.) MR ALEXANDER GIBB.

Alexander Gibb.

To the Chairman.—I am a farmer at Auchmuty and at Balgonie, in the parish of Markinch, Fifeshire. Auchmuty is about 394 imperial acres, and I pay a money rent of £672—the entry being at Martinmas to the whole farm. On my other farm, Balgonie, the rent, amounting to £300 and upwards, and sometimes below, is half grain—its extent being about 220 imperial acres, deducting the railway ground. They are both arable farms, and the period of entry is the same in both—the general period of entry in Fifeshire. My first rent for Auchmuty is paid the Martinmas after entry. On Balgonie I do not pay for a year and half—the terms being Whitsunday and Lammas. I have been farming on my own account since 1832. I cannot say I have experienced any disadvantage from the law of hypothec; but I think the law should be modified to this extent, that the sequestration ought to be published, and that the proprietor should have no power to go after the purchaser of grain to make him pay a second time. He should have no power to follow it after sequestration, and the purchaser ought to be brought to no trouble. It is very hard that a buyer should pay a second time. The landlord should look after a man who is sequestrated. If the sequestrations were published there would be no plea for ignorance. I think the landlord might have some power to follow the grain before sequestration. I would also shorten the time of the hypothec. It is three months at present after the last payment of rent. I think one month should suffice. *Q.* Would you still continue the landlord's right to the crop of the year, that every year's crop should be liable for the year's rent.—*A.* I think it would be as well to go back one year; but then at Whitsunday, for example, there is another crop seeded on the ground, so that the landlord would have a hypothec over two years by sequestration at that time. I am not so sure that he ought to have that power. *Q.* If you do not give the landlord the power of hypothec, would it not be in the power of the tenant to satisfy all other creditors before the landlord's rent is due?—*A.* I think the landlord, on the first half-year's rent not being paid, might sequestrate on suspicion; but always having paid on rent-day, that is not a matter I know much about. I should say that if the law were abolished, and the system of forehand rent introduced, it would be injurious not to small tenants only, but also to the large ones. *Q.* It would be particularly injurious, I suppose, to the smaller class of tenants?—*A.* Some of the large tenants have, I think, as much need as the small. I would not advocate any change in the law that would

have the effect of making the rent payable before getting in the crop; but I would have no objection it should be made as close on the crop as possible. For instance, on Balgonie I do not pay till Whitsunday, and can have the whole crop disposed of before then. I think it might be advisable for proprietors to keep tenants a little short that way. Alexander Gibb.

To Mr Murray.—*Q.* Suppose a man had stolen property and sold it, would you protect the purchaser?—*A.* I think the purchaser should be protected if he bought in ignorance. I think it hard that the law should not give that protection. It would be different if he knew it was stolen.

To Mr Hope.—There have not been many sequestrations in my neighbourhood. In the cases that have occurred the landlord has left the property in the hands of the tenants after sequestration. There was a sequestration on the Balgonie estate three or four months ago. The tenant got an arrangement, sold off one or two dairy cows, and satisfied the landlord, and he is still going on. I have had the Balgonie farm since 1832. I am within five years of my second lease running out.

To Mr Curror.—The rents paid by the small tenants vary from 30s. to £4 an acre. The smallest I know is one of thirty acres, and there is another of eighty acres, but there may be some between these sizes. The tenants are just in a middling condition. There was a small farmer became bankrupt on an adjoining estate four or five years ago. The landlord was not paid in full, and that being the case I have no doubt the other creditors would suffer; but they were well warned, as his affairs were well known to be in a bad state, and the manure merchants and others would not supply him without cash down.

To Mr M'Lagan.—When farms are advertised, I think the result generally is a change in the occupant for more rent. On the estate I last referred to the farms are generally advertised. Rents have risen since the Crimean war, with the price of potatoes, and things have been going well with the farmers. I would not say that the effect of advertising has been to lower the class of tenants. On Balgonie they do not advertise. If the old tenant applies again he is generally accepted, and thus there are few changes. It is clear, however, that the farms generally in my neighbourhood are too high rented. Rents were easily paid three or four years ago when prices were good; but I know many now who have enough ado to stand their own ground, and who are not the men of means they were four years ago. Where the rent is half in grain, the tenants are safer in times like the present. The distress of tenants does not arise from the law of hypothec at all. We heard little complaint about the law of hypothec before these high rents were promised; and now the low price of grain is the cause of the farmers' distress.

To the Chairman.—I think the law of hypothec has been a greater boon to the tenant than to the proprietor. I do not think the existence of that law injures the tenant's credit with other people.

To Mr Curror.—I never knew anybody lose by the law of hypothec, except in the case I referred to, where the landlord was also a loser; and in that case the tenant got people to support him, although everything was going wrong, and a great deterioration going on in the land and stock. Seeing there is much competition for land, and money is plenty, I do not think the law of hypothec can make much difference on the rents obtained.

(69.) Mr CHRISTOPHER KERR.

To the Chairman.—I am a writer in Dundee, and am factor on some large estates in Forfarshire and Perthshire, and likewise on some in Fifeshire and in Berwickshire. I should say that the rental of the estates in my charge amounts to close upon £60,000. I have been in the profession since 1830. I have asked to be examined principally in consequence of statements which have been made in the course of the evidence, on which I wish to offer some observations. I have read most of the evidence, published in the newspapers. Several of the gentlemen examined have travelled, according to my judgment, beyond the strict line of inquiry, and therefore I must ask your patience if, in reply, I should also enter into matters which are somewhat irrelevant. The gentlemen to whom I refer seem to have desired to impress the Commission with the idea, that I am in the habit of letting the farms under my charge at exorbitant rents and very recklessly, trusting to the law of hypothec. My name is not given, Christopher Kerr.

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but there is no room to doubt that I am referred to. One leading statement refers to the management of Lord Wharncliffe's estates, of which I have had the management since 1839 or 1840. It so happened that the greater part of the leases on that estate ran out in 1846, but, that you may judge how far there is any reason for asserting that there was any unreasonable exaction from the tenants, I may notice how few of the farms changed hands at that period. The first case of removal I shall mention was that of the tenant of Ardler, in the parish of Kettins. He declined to give the rent that was proposed; but he left because he had made a fortune on the farm, and had purchased an estate near Cupar-Fife, where he went to reside. He was succeeded by a tenant from another part of the same estate, who accepted the terms which the retiring tenant would not give. The new tenant is in it still, and I am sure every one who knows anything of the country will admit that he has become rich on the farm during the lease. The next case of removal was the tenant of Denend, who declined becoming tenant, but recommended his nephew, who got the farm at the rent at which it was offered to the old tenant. The nephew remained on the farm till about three years ago, when, having become wealthy, he took a large farm in the neighbourhood of Brechin, and received a price for his lease, the new tenant taking the farm at an increased rent. Then there was the farm of Henderston, from which the old tenant was transferred to Ardler, and which was now taken by his brother David; the elder brother being promoted to a better farm, and the younger brother taking his place. These three were the only tenants who changed at that time, demonstrating, I submit, that there is no truth in the charge made against the management at that period of removing old tenants to make way for new ones ill chosen; and I have to add that there are none of those farms which have come out of lease since 1846–7 but have been relet at higher rents. Being comparatively inexperienced then in the management of farms, I consulted some of the principal tenants themselves,—particularly one experienced and honourable man, the then tenant of Burnmouth, who told me the rents he should pay and the others should pay, and to whom I let his farm again at his own rent, and his family remain on it to this day. I state these facts as demonstrating that there was neither reckless letting nor exorbitant rents exacted in the great letting on Lord Wharncliffe's estate in 1846, which laid the foundation of the large advance in rents in Strathearn. Now as to the changes which have taken place since 1846. A very eminent rearer of stock, Mr Watson of Keillor, long a chief tenant on Lord Wharncliffe's estate, was one of those who re-took their farms in 1846. He had also the farm of Auchtertyre on the same estate, which he had entered in 1840 or 1841. That farm he requested me to join in reletting about nine years ago. Lord Wharncliffe, who was always very liberal to his tenants, and in particular to Mr Watson, agreed to relet it on a nineteen years' lease, giving Mr Watson all the increased rent for the period of the lease still to run. The rent had been £400, and we relet it at about £750, and Mr Watson received the increase of rent during all the period that was to run of his lease. The new tenant is one of the most efficient and improving tenants in the county, and he has improved it so much that, were it to let now, I have no doubt he would give £200 or £300 more rent for it. Mr Watson remained tenant on the farm of Keillor until about three years ago, when he gave it up also on account of his declining health. That farm was let to him in 1846 for a rent partly in grain, and averaging £700, and it was relet at £1460, Mr Watson receiving the surplus rent for the remainder of the lease. Another farm Mr Watson had at one time was the home-farm of Mains of Belmont. He was paying a grain rent for it amounting to about £100, but, becoming dissatisfied with it, he proposed to give it up. There was no idea of increased value entertained, but, on Mr Watson giving it up, it was let at about 50 per cent. of an increase to a new tenant, who still holds it; and he has, to my knowledge, saved about £2000 upon it.* I think, therefore, I have shown you that the reletting in 1846 of Lord Wharncliffe's farms was not of the description put upon it by the gentlemen to whom I have referred; for, in place of getting new and unsuitable tenants, almost all of them were the old tenants, and, in all cases where we had an opportunity of testing the value, increased rents were obtained. Another of the farms relet at that time

* Mr Kerr has since explained that, besides the farm previously let to Mr Watson, the new tenant rents a piece of land, which had formerly been let as a grass park at £35, 5s., and which he took about 1853 at a rent of £60.

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was to a gentleman, whose family had been on it for more than 200 years; and I have almost closed a bargain with his son for another tack, to take effect at the end of the present lease, at a considerable increase of rent. The farm of Burnmouth already referred to is now held by the former tenant's nephew, the heir to the lease; and that nephew is on treaty now for a renewal at an increased rent. Mr Watson is succeeded in Keillor by a gentleman who was specially alluded to by one of those examined, whose evidence has been published in the newspapers; and it is right, in justice to the new tenant, after the reference that has been made to him, that I should tell you something about him.

The Chairman said it had not been the practice of the Commission hitherto to give the names in these cases.

Witness.—But all these cases and the circumstances of them are quite well known in the district, and they will not be a bit better known that the names are given; and I am sure that none of the gentlemen, to whom I shall have occasion to refer, will have any cause to complain of what I may say regarding them. Keillor is the farm in the neighbourhood of Newtyle referred to by one of the gentlemen, whose evidence is in the newspaper in my hand. There were several offers for that farm from highly respectable persons. Mr Watson and I—he being to get the surplus rent—opened these offers, and there were two of the offerers whom we selected for consideration. I do not know whether, as the gentleman examined says, all the other offerers were gentlemen of large means. The two we selected were the one referred to as now on the farm, and the son of one of Lord Wharncliffe's old tenants; and, if I had not had Mr Watson conjoined with me, I might have selected the son of an old tenant on that ground. But he was £40 lower in his offer than the one we selected, who was in every respect as suitable for being a tenant. He is described by the gentleman examined as 'a merchant;' and he has been a merchant in much the same sense as the farmer-merchant who gives the evidence; that is to say, he had held an agency business in Dundee, but he is by descent, habit, and connection a thorough farmer. His father and mother were both the children of highly respectable farmers. His father was a farmer. He has two uncles who are farmers,—one of them esteemed one of the best managers of stock in the county; and it was by his advice the farm was taken. His other uncle is also an experienced farmer. He may not yet be a rich man, but he has paid up his rents and manured his farm in a way a poor man was not likely to do; and his management of the farm is altogether unexceptionable. One objection to him may be that he has let his hill pasture and turnips; but so did the excellent tenant of Auchtertyre in his early years; and he has set himself to manuring the farm, and he has been raising crops which justify his rent. He declares himself satisfied, and we see no defect in his management.

To Sir W. Gibson Craig.—Q. Has he had any reduction of rent?—Have you, as has been stated here, given him £200 of deduction of rent in the shape of manures?—*A.* It is quite true that I have this year agreed to aid the tenant by a gift towards manure; but it is a gift for the one season, not a change in the rent. There is nothing peculiar in such an arrangement. The system I go upon generally is this, that there is no security a proprietor can have for his rental equal to having the land improved and brought into good heart; and I never hesitate, when I see a tenant disposed to go into manuring the land in a hearty manner, to encourage and help him in every way. Last August I recommended to Lord Wharncliffe to offer to two tenants to give for that year £100 towards their extra outlay for manuring. I also told the tenant of Keillor that I saw what he had been doing, and that if he went on in the same style I would advise Lord Wharncliffe to help him. I named £250, if he would spend £500 on substantial manures for that year. This is what is stated to you as a reduction of rent. I may refer to the case of a farm in Berwickshire well known to the chairman. I saw the tenant of the farm making great exertions, and I agreed, if he drove and laid on his farm within a specified time (I think three years) lime to the cost, without carriage, of £500, I would pay the half,—that is, up to £250. But this was not abatement of rent—simply a special gift for once. It has also been Lord Wharncliffe's practice to make concessions for improvements. Good tenants have never found any difficulty in getting all they could reasonably ask. Lord Wharncliffe's rental has doubled since 1840 under the management I have described, and it is going on increasing year by year, and well paid. Another case referred to is that of 'a farmer in the parish of St Vigeans, near Arbroath.' That farm is on

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an estate of about £5000 to £6000 a year. The proprietor has done a great deal to his property in draining and building, but that whole district of the country has been ill farmed. The farms need manure; they want heart. The farm referred to had been in the hands of a very bad tenant, who left it almost unproductive. When I entered on the management, I got quit of that tenant as soon as I could; but the proprietor is a gentleman of extreme kindness of disposition, and he selected as his successor a young man whose father had been a tenant in a small farm. I was not responsible for that selection, the proprietor having made the bargain himself. He imagined the young man had capital; I soon found he had not—at least not sufficient properly to manure the land, and to take the value out of it. It soon appeared he could not go on; but the proprietor still having a good opinion of the lad, gave him a large sum to lay out in manure, or in other words desired the tenant to order dung, and desired me to guarantee payment of it. There were no debts that we knew of; and from the beginning the intention was to see how the lad would get on, and then decide whether to remove him or continue him. When the land had got the treatment we desired, it was arranged—the young man being confident that he could go on—to convert his debt into an annuity, or in other words increase his rent by that amount. The case had no connection with the law of hypothec; his rent was simply increased from 33s. to 42s. or thereby, in order that the debt might be extinguished. The young man thus got, instead of a worn-out farm, one properly manured, and he should have had no difficulty in paying the increased rent from the improved farm. It is what I have done in several cases, but this is the only case in which it failed.

To Mr Murray.—Of course we included the arrears of rent in the debt. Instead of calling up the arrears of rent, we advanced money to get manure. Instead of paying the rent, he was allowed to spend the rent in improving the land. He got aid in money by paying an addition to his rent. That was done by special agreement as a rider to the lease.

To Sir W. Gibson Craig.—No doubt the effect of the agreement was to give the landlord the right of hypothec on the increased rent; but it matters not whether you term it rent or loan. It is simply that the landlord provided the manure to bring the land into a more valuable condition, and the rent was increased just as it would have been by adding 6½ per cent. for drainage.

To the Chairman.—*Q.* But, if it had remained as a debt, instead of being added to the rent, you would not have had the security of the hypothec to recover it? —*A.* But in truth the question of hypothec has never risen in the case. The man is now bankrupt, but I suppose all his other debts do not amount to £100. The man has no funds, and had no credit.

To the Lord Provost.—Although the law of hypothec had not existed, the proprietor would have assisted this man just the same. It was for his own interest to do so. We would otherwise have had to let to another party a worn-out farm. It is common enough in such a case, for the first five or seven years, to allow so much off the rent for manure, but you seldom get justice from a bad tenant by that course. We thought it safer to help the old tenant to buy manure, and guaranteed the price, for nobody would have trusted him. If this young man had been a person of energy, I believe he could have gone on under the arrangement, for it was just giving him so much capital to carry him on. Two years ago I had an offer of 45s. for this farm, and I offered to the young man to relieve him of it, but he thought he could go on. Had he taken it, he could have retired with a considerable sum, from the surplus of the offer; but he desired to go on, and we allowed him to do so, very much against my own opinion and wishes; and he has now contrived to throw himself into bankruptcy. Until his estate was sequestrated, we never knew he had any debts to others; but he would seem to have had certain debts to a corn merchant and to a manure merchant, who had all contrived to pay themselves by taking a portion of his crops, and that seemed to exhaust him. It is now said there is a debt to his sisters of some money which belonged to them from their father, and there is also a debt of £80 due to some manure merchant. All that may be, but it is not the case that he became a 'bankrupt with very large liabilities.' Mr Steven, accountant, Dundee, is the trustee. He asked me to make a 'compromise,' but I saw no occasion for a compromise.

To Mr Murray.—I have little doubt that the increase of rent also included the arrears as well as the manure. But the land got the benefit of the whole sum,

for the tenant had the arrears to pay, and must have spent the less on the farm.

To Mr M'Lagan.—If the tenant owes £100, and the landlord offers him £500 to be laid out in manure, and pays him the balance of £400, that is the same as paying the full amount; and the tenant getting the use of the money pays it back principal and interest.

To Sir W. Gibson Craig.—We converted the amount into a loan spread over the remainder of the lease. I am unable to say what was the exact amount the tenant in this case was to put out upon the land. I cannot say whether he paid the money, or we for him. *Q.* How could you certify that he expended the money on manure?—*A.* The dung would come to the railway station, and we could also check it by the production of the invoices.

To the Chairman.—*Q.* Was the rent he was due spent on dung as well as the money you gave?—*A.* Of course it was. That would be accounted for in the payment of the rent.

To Mr Murray.—*Q.* With reference to what sum did you calculate the increased rent?—*A.* The sum that was owing. Of course any arrear of rent would be included.

To Mr Hope.—The tenant entered on the farm about ten years ago; and the agreement for an advance and increased rent was made four years ago. I have no doubt he would be owing arrears of rent at that time. *Q.* These arrears of rent could not be used as dung?—*A.* I do not mean to say they were. But the tenant practically got the money for that purpose, and the amount was converted into an annuity and added to the rent.

To the Chairman.—In the case of building or draining, it is interest and not annuity the landlord gets, for the land gets the benefit for a greater number of years. We have no hypothec in security in that case. In fact hypothec is not mixed up with the thing at all.

To Mr Curror.—The St Vigeans farm debt I suppose would be £300 or £400. I have not had many cases of this kind. I recollect in one case we passed a tenant two years' rent, seeing he was doing no good; and we gave him a considerable amount for manure, and increased his rent. The tenant paid the larger who had been unable to pay the smaller rent, and he contrived to save about £600 on a lease of £50 or £60. If you have confidence in the tenant, it is better to manure the land thoroughly for him than to turn him out because he has not enough capital. Last year the proprietor of this same estate, in the excess of his liberality, lent one of his tenants £600 to put on the farm, and it was not put on in the shape of advanced rent, but as a loan. He has lost by it, because it turned out that the tenant owed money to his relations, which fact he concealed, and so soon as he had money they all came down upon him, and the proprietor's intention was not accomplished. In January 1864 the same proprietor gave notice to three of his tenants that he would pay one-half of whatever dung they bought and laid down on the farm. They accordingly drove a large quantity of dung, and when Lammas came he desired that instead of getting the half they should get the whole. Some of them had not been long on the property, but that became in effect the means of improving the farm in the landlord's interest. With the present low prices, it is difficult to get tenants to lay out their own money in improving the land, and it is often the interest of the landlords to do it for them. None of my other tenants to whom advances were made have become bankrupt. On the contrary, they have all thriven. This case of St Vigeans had nothing to do with the law of hypothec. There was no sequestration until a few months ago.

To the Chairman.—No doubt for the current year we had the security of the hypothec for the additional rent; but this man is now off his farm, and we have no benefit of the hypothec. If he had gone on, we would have had the benefit of the hypothec, but, becoming a bankrupt, we only secure the increase for the year. We have got two years of the annuity, but no more.

To Mr Murray.—It was not a bad transaction, however. I look upon it as profitable in this way, that the manure improved the farm, and will enable us to get a higher rent. We were offered 45s., as I have said, two years ago. The value of the land has been increased by the manure. I believe our loss would have been greater had this money not been advanced. Undoubtedly we would have been in a better condition if we had got our rent and the dung too.

To the Chairman.—I know nothing about the Menmuir and Stracathro cases mentioned by the gentleman whose evidence I have specially referred to. I

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know the management of these estates is in good hands. I know nothing about the case of Monikie. This gentleman says, 'The factor before referred to has upwards of fifty pair of horses going on land which he has taken into his own hands.' I believe that refers to me, but the 'fifty pair' exist only in the gentleman's imagination. I will tell you what number I have. On Lord Wharncliffe's estate, the farm of Drumkilbo has been in his lordship's hands since the insolvency of the Western Bank, that is since 1858. It was held by a Mr Erskine, a partner of the bank, who left suddenly about this season of the year, and I had no choice but to apply to the sheriff for a warrant to manage the farm till I could get the lease put an end to. We let the farm next year to a tenant, of whom we had to get quit, for private reasons not affecting the value of the farm. It has remained on his lordship's hands ever since, for several reasons I need not detail, having nothing to do with the matters investigated here. We have four pair of horses on that farm. Then there was the farm of Bannatyne, taken into our hands in November 1863. We had relet it to the outgoing tenant at a largely increased rent; but before he signed the lease he drew back, and we allowed him to withdraw, and resolved to hold the farm unlet in order to have complete relief from the ties to the outgoing tenant. We had a further reason, viz. that the Scottish Central Railway Company sought an Act (which they have got) for a new line of railway through the farm. On that farm we have two pair. Then on the farm of Langlogie, which fell out of lease at Martinmas last (the tenants having retired on a moderate competency), we found it had been sadly neglected—not ill used, but nothing done to it, and we were able to put it in better condition by aid from Drumkilbo; and we are now on treaty for letting the two together, saving the building of a new steading on Langlogie. This same gentleman is reported to have lately said we had had excellent offers for these farms, but would not let them. It is true we have got offers of £1200 for these two farms from men quite unexceptionable as respects capital and character, but whom we did not conceive to be of a suitable class of tenants, not having that experience in the management of stock we thought requisite for these farms. We have three pair on that farm, making nine on Lord Wharncliffe's farms. Then I have the farm of Inverquharity, on the estate of Kinnordy. We had that farm formerly in grass, and wish to restore it to grass. It is all in grass but eighty acres, and we have five horses, that is two and a half pairs, driving manure, and laying it out in grass. Then on the St Vigeans farm, now fallen into the proprietor's hands, there are three pair. On the same estate I think we have another farm which the tenant is unable to go forward with, and which is now in the proprietor's hands; on that farm there will be another two pair. Then on another estate there is a farm which the trustee of that estate has not let for a special reason; on that there will be another pair. On my own farm, on the Ochils, I have three pair; and on the farm of Meathie, which is also my own, and which we have been improving, I have four pair. But these horses on my own lands, and for my own purposes, have nothing to do with the purpose of this inquiry, unless it be to show that I am not without substantial personal connection with agriculture for my own benefit. I have a farm of ninety acres in Fife, on which I suppose I have two pair. This farm is within two miles of Leven; and the last tenants had brought it to such a condition that I could not see how to let it even for 25s. an acre, but I knew it was good land, and only needed good treatment. I found that in Leven I could buy muck for 2s. 3d. a ton; and I bought 1000 tons at that price, and from that store we have put the farm in wonderful condition at small expense. The people in that part of Fife had not thought it worth while to put dung on their farms, but my example has set the price up to double, and I have now my land in a condition worth 50s. an acre. But I am still keeping it in my own hands, for the adjoining farm will be out of lease in 1866, and I have to arrange about the steadings. I have on these ninety acres a quantity of stock which is excessive in the views of that part of the country. On the subject of sequestrations on the estates under my management, I have some particulars to give. On Belmont estate (Lord Wharncliffe's), from 1839 to 1865, there have been seven sequestrations out of I suppose 200 tenants, including the smaller class. Three of these are recent. One is within the last ten days. I had no intention of applying for it, but representations were made to me by other creditors, who appealed to me to use sequestration to prevent waste, and for their protection. So far as I was concerned I did not need it. Another case is that of one of the

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old tenants of Belmont, whose father got a renewed lease in 1846. He is leaving the farm simply for want of capital, and intends to emigrate. The father had ample capital; but when his means became divided among his family, the son who succeeded to the lease found he had not sufficient. He has applied to get a consideration for letting his farm, and he is to get one-half of the increase for the years of the lease to run, so that it is not the rent that has led to the sequestration, but simply the want of capital. The third is a peculiar case. The circumstances of it are these:—The tenant's mother and, after her death, himself were for twice nineteen years on the estate of Craigie. He seemed an honest, well-meaning man. His employment there was that of a dairy-farmer. He applied, with the aid of a very experienced and respectable farmer, to get the farm on Belmont. He entered at Martinmas 1862, and he reaped the crops of 1863 and 1864. He says he had £1900 when he entered, and I have reason to suppose he had more. He paid one rent at Candlemas 1864, for the first half of crop 1863, and he paid a small sum (£70) towards rent at Lammas 1864. But now he came to tell me he would not go on any more, and that he was to leave the farm at Martinmas. I offered to endeavour to get another tenant who would relieve him, if he would pay a sum of money to the tenant to make up for the damage that would be sustained. He would do nothing of the sort, and when Martinmas came he left the farm, and would not even pay his servants' wages, but left that for me to do. I applied to the sheriff for a warrant to manage the farm, and sequestrated his estate in order to get quit of the lease. His plea was that the lease was binding on the landlord but not on the tenant. He spent nothing on the farm, and did nothing for it, but complained of my interference because I told him that, unless he did something for the farm, he would never be able to pay his rent. He had £1900 there in the shape of stock and crop, but his whole course was one of foolish obstinacy and mismanagement. I have no doubt that, of the £1900, about £1300 or £1400 is there still in the form of crop and stock. The rent was £450, and I expect to claim on his estate for the unpaid amount. The man has no creditors except his landlord. A good many of his neighbours have remonstrated with him on the folly of leaving the farm, but nothing would move him. Of the older cases on Lord Wharncliffe's estate, one was a saw-miller, another a meal-miller, another a pendicler—all a good many years ago. I do not think that in any of these cases we had to sell off. On the Drumkilbo estate there have been three sequestrations since about 1837. One was the Mr Erskine of whom I have spoken. Another was a tile-dealer; and the third a man named Birrell of Castleton, whose case I will again speak of. On another estate of Lord Wharncliffe, there has been a sequestration for protection because of interference. On the Kinnordy estate, from 1849 to 1865, there have been only six sequestrations, —two of them cases where there was bankruptcy, and we had to make our right real. Another case on that estate (one of the six) was that of a tenant who seemed to take the view, that a tenant is not bound by the lease, only the landlord. Instead of paying his rent, he paid the debts due to his friends, and then came and told me I must make a large reduction or else he would not go on. I said I would not comply with such a demand. I took out sequestration, and allowed him to sell, paying me the money he drew; and this year to my surprise I found he had got an excellent stock of cattle on the farm, and that he is manuring it well, and I have no doubt that after this lesson he will go on and be a good tenant. On that estate there must be fifty tenants. It is referred to as 'a small estate near Kirriemuir, on which there have been twelve sequestrations.' It is an estate of £6000 or £7000 a year. I do not know what other estate can be referred to. On the Simprim estate, from 1840 to 1865, there has been no sequestration, except that of a blacksmith last summer, having about ten or twelve acres of land. The man is not removed, but in order to protect him from the diligence of creditors we applied for sequestration. On another estate of about £3000 a year, from 1840 to 1864, there have been three sequestrations; one of them at the request of the tenant, in consequence of being threatened with a poinding for a debt for which he was bound as a cautioner. Another was a case of mercantile sequestration. The third was the only real sequestration we had. It was a case where we had to sell off to realize the estate of a pendicler. On another large estate we have had only two sequestrations from 1836 to 1864, one of them a case which deserves some attention. We found that the tenant was displenishing, and that we had been too easy with him, and trusted him too much. We had used no sequestration, but allowed the man to manage and sell off, and, one of his cautioners

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advancing money, he walked quietly away with it, and we had to sequestrate what remained, but losing about £500 of rent. We might have followed the stock, but we made no claim of the kind, though the law of hypothec would have enabled us to do so. On another estate of £2000 a year, from 1840 to 1864, we had only one tenant, a meal-miller, sequestrated; and on one of £6000 a year, from 1830 to 1864, only a gardener with five acres of land. On two estates, together about £4000 a year, from 1836 to 1864, we had three sequestrations; one of them a man who was sequestrated for his own protection, and nobody suffered. Another was the tenant of a large farm, who was sequestrated for protection; no sale under it. On Lethamgrange there have been four sequestrations. I do not find any on the other estates of which I have had charge. The number of sequestrations I have given you is thirty-two, out of probably 470 tenants and £58,000 of yearly rental, extending over an average period of twenty years. In the majority of cases I should say the general creditors did not suffer. In short, very few of these sequestrations were worked out. I believe there has not been one sale in ten sequestrations. One great value of the power of sequestration is the facility it gives you of dealing with the tenant; and, if you contemplate any change in the law, you must consider narrowly what provision you are to make for the general creditors. One of the cases I have mentioned affords an illustration on this point. We found the man was allowing certain of his creditors to get preference, and was giving away his grain and stock to special creditors; and the others, having no means of preventing him, applied to me to sequestrate him. Another point deserving of consideration is the power the tenant has of coercing the landlord. I could give you several instances, but will mention only one special case, where the tenant came to me and said—If you don't agree to give me a reduction of rent, I won't pay you any money, and you can take charge of your farm. A tenant entering at Martinmas, and paying at Candlemas twelvemonth, has the opportunity of getting his whole crop and cattle converted into money, and the landlord has not a word to say, unless he is prepared to prove him to be in such an insolvent state as to justify interference. And when Candlemas comes he may walk off, or he may spend the money in paying off whatever creditors he may think fit, and very often these are his own relations and connections. And what condition are you then left in? You cannot turn him off the farm, and you have no summary means of making him cultivate it. The obligation to cultivate his land in due season he laughs at, for you must wait till the season has gone by before you can object to his cultivation. You cannot go to him and say, 'You do not cultivate your farm,' for his answer will be, 'Wait and see. I am taking my own way with it.' You can get no money, because his crop and cattle are all sold; and though the implements are there, you dare not and he will not use them. I had an instance of this where we lost the whole crop by the tenant not cultivating the land at all. I had also the case of two joint-tenants who were in arrear of rent. They had taken the farm recently, and they told me, 'Unless you agree to reduce the rent, we won't go on. If you agree to do so, we will pay you the arrears and the Candlemas rent; if you won't, you must manage the farm as you think fit.' The only mode we have of dealing with such tenants is to sequestrate them under the Bankruptcy Act; but if you do so, as in a case I formerly mentioned, you get a trustee, and he can renounce the farm, but unless you do so the sheriff cannot interfere to dispossess the tenant. In the case I am now referring to I resolved to make these men bankrupt. I did not intend to put them in prison, but, seeing the men acknowledged they had the means of paying but would not, I left the case to the officers, who, in consequence of the information they got, put them in prison. The result was, they paid all their arrears and returned to the farm; then I made equitable arrangements with them. This illustrates the difficulty we have in dealing with such tenants. I would again refer to the case of Birrell, spoken of as one in which the lease had been sold for a large *grassum*. The facts were these:—He was a very enterprising tenant on the Drumkilbo estate, but he became bankrupt. I allowed the creditors to sell the lease, retaining a veto on the new tenant, and giving them the difference, except what was necessary to pay for the family of the poor man following him to New Zealand, whither he had gone. The price was nominally £850 or £860, but it was actually £1300, it being conditioned that the new tenant should give a fixed price for the crop. *Q.* This case is mentioned as one in which the tenant is unable to go on for want of capital, but in which the landlord gets back his property at improved value?—*A.* The landlord here did

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not take the benefit of the improvement, but gave it to the creditors, allowing them to sell the lease and crop by public roup. As to the man's capital, I believe the real fact was that he had ample capital, but lost it in Australian speculation, at the time when there was a great rage for exporting grain to Australia. His family lent him large sums, which he lost in these speculations, but for which, I have no doubt, he would have been a rich farmer. *Q.* You have not been in the habit of letting farms to men who are not practical agriculturists, trusting to the security which the law of hypothec gives you?—*A.* Quite the reverse. I don't know an instance in which I have let a farm to one who is not an expert agriculturist. I am particular in my inquiries both as to the man's capital and skill. We may of course be deceived, and not unfrequently are deceived, as to a man's capital; and one great source of deception lies in this, that a man gets money from his friends, which you imagine to be his own, and when times of difficulty come they call their money up. I have an example of this in the case of a tenant on the Kinnordy estate. The tenant represented that he had ample means, and for the first two years there seemed to be no want of it; but he lost money by the death of cattle, and found himself getting into trouble, and two years ago he had to pay usurious rates of interest to get money to purchase his grazing stock for the summer. I was so thoroughly satisfied that the man had ample means, that I lent him £300 at ordinary interest to pay for the stock. He bought the stock, and I was to be paid when he sold them. He did sell them, and I got £240 back, but some manure merchant had contrived to get £60 of it; and then, to my surprise, it was announced that he was insolvent, for his friends, who were propping him up, had lost courage at the apparently bad times, and had withdrawn their support, so that he could not go on. I believe the man would have done well, but for his friends withdrawing when the pressure came. He was not overrented, for his farm has since been let to an excellent tenant at nearly the same rent that he paid. His friends wanted, when it was too late, to make arrangements for his going on, but his creditors had got his estates sequestrated under the Bankruptcy Act, which stopped that being done. It is not my practice to take the highest offer. I always look to see who is to be the best tenant. The law of hypothec does not influence me in any way in the choice of tenants. I never have followed the grain after it was sold. There have been numerous cases in which I could have done so. I have repeatedly had intimation given me that so and so had got grain, yet the rent was not paid; but I never brought an action against any one. With reference to the general question of the effect of the law, I would remark that in Forfarshire we have some notable examples of farmers being able to set out all their sons one by one in farms, who, but for the advantages given them by the law of hypothec, would not have been able to do so. The law of hypothec is in effect a certain capital or credit given to the tenant. Now, take the case of a farmer worth, say £5000, with a family of sons. He wishes to put them into farms, but it needs £2000 to £3000 to put each of them out. But for the aid this law gives him, he could not do so. There is one family named Bell, in Forfarshire, nine in number, the sons of one father, James Bell, a tenant of Lord Douglas, in Barns of Claverhouse. He lived to place out these sons one by one into farms, and they are now all among the most respectable tenants in Forfarshire. There is another of Patullo, six of them all put out in the same way, and all respectable farmers; and another family named Bell, where three of the sons were so put out. In the case of the tenant already referred to, who gave up his farm intending to emigrate, the father died worth £4000. Had he lived, he might have put all his sons into farms, but dying while still middle-aged, his money was divided. Three of his sons went out to New Zealand, and the fourth is about to follow—his portion having been insufficient to maintain a farm here. The family have been in the farm for sixty or seventy years, yet they have now to break up. This is not because the rent is too high, for on next entry it is to be relet at an increased rent, and the retiring tenant is to be allowed by the proprietor the one-half of this increase. It is solely the want of means. The hypothec helps greatly in such a case, by enabling the proprietor to give long terms for payment. But it is not enough, and this family is broken up. If the accommodation be withdrawn altogether, then a greater number of tenants' sons will come to feel that they have lost the help they need. Prudent, thoughtful men see this. Then, again, a great many tenants were originally grieves. Indeed, many of our best tenants have risen from that class,—the sons or grandsons of men who were grieves in

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their early days. I have before me the case of a grieve who, after twenty-six years' service, had saved £200, and was put out on a farm of £400—his master engaging to supply all the stock, and to help him on. In the midst of all difficulties that man has got on well, and been regular in paying his Candlemas rent. Such a man could not have got the necessary indulgence but for the law of hypothec. In the case of a farmer putting out his sons, he would probably have to take smaller farms for them. If there was no law of hypothec, I don't see where he could get the means. He might from friends, but I doubt if he would get it from the banks. I do not know that the law of hypothec makes the banks more cautious in giving advances than they would otherwise be. No doubt it diminishes the chance of dividend, but banks are not in the habit of looking to dividend, but to security. Then, as to the effect of the Mercantile Law Amendment Act, passed a very few years ago, if the law of hypothec is to be touched, it will be good that you look to the rules which that Act established. That Act permits the secret sale of all a tenant's crop so soon as he gets it cut, delivering it as the purchaser wants. There is nothing to prevent that if the law of hypothec be abolished; and so landlords, and manure merchants also, may find under the Mercantile Law Amendment Act an artful tenant, having all the worth of his crop in his pocket months before either landlord or creditors think of it, and the man himself perhaps beyond seas. Some gentlemen appear to see no good reason why a tenant should not be allowed to sell all his corn in the stack.

To Mr Curror.—There has been a great rise of rents in Forfarshire within the last twenty years—in many cases to double. There have not been so many changes as is generally supposed. The statements that have been made as to the changes are much exaggerated.

To the Chairman.—I am not prepared to say there ought to be no changes in the law of hypothec. If I were dealing with the question, whether we should create such a law, I should say no, provided we were doing well without it. But I take the law as it exists, and I find there are many hypothecs—hypothecs in favour of farm-servants, of superiors, of proprietors of urban tenements. All these are in existence, and I do not think any such inconvenience or injury arises from their continuance, as should induce us to desire a change. I believe, notwithstanding the statements which have been so confidently made, that the feeling of the tenants is in favour of the law; and, with the exception of what may be called a kind of aristocracy among them, they do not desire a change. There is a class, holding themselves superior to their neighbours, who desire a change, but I do not find it general among that class who speak quietly with me on the subject. And for this reason,—they feel no injury from the law, and they find matters working quietly and smoothly; and notwithstanding the story of the meeting of 1000 farmers in Dundee—the 1000 existing only in the imagination of the party who makes the statement, and notwithstanding all this signing of petitions—for, as petitions are managed, anybody can be got to do the small favour to sign a petition—I do not believe the tenantry desire any change. There may be amendments of the law which are desirable. If a corn-factor has bought grain in good faith, I do not think it should be followed. One simple mode would be for tenants to come to their landlords and ask a certificate that they are free of hypothec, and that would easily be got by all well-doing tenants. I also think it would be a good thing to give notice seven days before roup, and, if anybody finds fault, that then the hypothec should apply. That would be convenient for the landowner and the factor. As to notice in the *Gazette*, I do not see any practical good to come out of that. There are few sales after sequestration, for, if men go into a sale after sequestration, they are liable to be sharply used. In January last I could point to more than half a dozen tenants who I knew had sold large parcels of grain for the purpose of endeavouring to coerce their landlords, and I think landlords are only too easily coerced in that way. If they would go into mercantile sequestration against every tenant who conducted himself in that way, we would have less of that kind of work. They should be sharp to those that misbehave, and lenient to those who do well. The general rule of factors is to be lenient to the tenantry. Even now I have a great many tenants who have applied to me to postpone payment of their Candlemas rents. That is because of the change of the time for wintering stock, for they say their stock is not now so forward as they used to be, and that they now keep them on till March or April. I have never refused that accommodation to any

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one who shows good reason for it, and I have never had cause to regret giving the indulgence, though we lose our hypothec.

To Mr Hope.—In Forfarshire we have generally to deal with the payment of rent at Candlemas and Lammas, but I have two or three cases where they literally pay forehand rent. Entering at Martinmas they pay the first half-year when they go in, and the second half at Whitsunday. I have several tenants on the Grampians on these terms. *Q.* Are any of these seeking postponement?—*A.* One man on Saturday last paid me his Martinmas rent, and he arranged with me that in future he should postpone his Whitsunday rent till Martinmas. We have others who pay the second half-year at Martinmas, so that the hypothec expires with them at Candlemas, and yet we frequently give them indulgence.

To Mr M'Lagan.—I am not as a rule in the habit of advertising. In former times I took the advice of Mr Blackadder of Glamis; but in course of time I found out he had lost the scale the tenants were going by, and that their valuations were higher than his. I resolved, therefore, not to take his valuations, but to take his advice how to manage. I am at present arranging with existing tenants for two farms which I have not advertised. I had the assistance as to one of them of Mr Elliot of Laighwood. I know the value pretty well of all the farms on the estates I manage, but I have never had any difficulty in getting the assistance of the tenants around.

To the Lord Provost.—I do not think I have ever sold under the law of hypothec for the recovery of rent. There was one instance of the pendicler we sold out some years ago. Last week we sold £40 of potatoes under warrant from the farm of St Vigeans, and one of my assistants remarked to me that that was the only instance he could recollect of our selling under warrant. I had to do it there because the man was away, and the trustee gave no concurrence, so that we had no other means of realizing.

To Mr M'Lagan.—If the tenant is doing any good, we desire to keep him and to encourage him; if not, we try to get quit of him. If a tenant shows a disposition to improve the land, we aid him, especially if he be tightly rented. At present, owing to the prices of grain, many of them are rather tightly rented.

To Mr Carnegie.—I do not think there are many cases of sales by manure merchants to tenants who are under sequestration, the merchants not being aware of it. They may say so, but I don't think there are. There cannot be the least objection on the part of proprietors to the publication of sequestrations.

(70.) Mr CHARLES STEWART.

Charles Stewart.

To the Chairman.—I reside at Hillside, Lockerbie, Dumfriesshire. I have been engaged in the management of land for fifty-two to fifty-three years. I am factor for Mr Hope Johnstone on his Annandale estates, and also for Lord Rollo's and the Hon. Mrs Butler Johnstone's estates in Dumfriesshire. Some years ago I resigned the management of Lord Hopetoun's estate in Lanarkshire, and also of the Lockerbie and Wamphray estates. These estates embrace farms of all sizes, both arable and pasture. There are three different entries in the district. On the large pasture farms, which have a very small portion of corn land, the entry is to the houses and grass at Whitsunday, and at the separation of the corn crops following to the corn land; and the rent is payable at the Candlemas and Lammas after entry—that is, if a tenant enters at Whitsunday 1864, he pays at Candlemas and Lammas 1865. On the farms of Mr Hope Johnstone and the Duke of Buccleuch, even where wholly arable, the entry is at Whitsunday to the houses and grass, and at the separation of the crop to the corn land. On Mr Johnstone's, however, they enter at the Candlemas preceding to the green-crop culture; that particular entry is, I think, confined to Mr Johnstone's farms, and the other estates I have charge of. I began that system about thirty years ago, and thought it a great advantage. The rent in these cases also is paid at Candlemas and Lammas. The third class of cases, of which there is only a small portion on Mr Hope Johnstone's, embraces a very wide extent of the lower part of Annandale, south of Lockerbie. The entry is at Candlemas to the arable land, or in some instances now at Martinmas, and at Whitsunday thereafter to the houses and pasture. On the estates I have charge of, the rent is payable at Candlemas and Lammas, but not so in South Annandale. There the rent is payable by the leases at Martinmas and Whitsunday, but in very few cases is the

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first half-year's rent really collected before the middle of January, or from that to the middle of February, and the second in July or August following. I have no doubt that the law of hypothec, taken as a whole, operates beneficially. During a period which is very clear in my remembrance, from 1817 to 1841 or 1842, I think the law had an extremely favourable effect in maintaining the position of the arable farmers of the country generally. It maintained the confidence of the landlord in the tenant. From 1815 to 1841 the rents were generally much beyond what should have been paid, from the effect of the peace and the changes in the currency; and a large portion of the farmers could not have kept their position without a considerable abatement. That of course was not universally given; but the law enabled proprietors to give time to their tenants, particularly on the poorer lands, whereby many tenants of small capital were enabled to recover. In short, it had the effect of maintaining the position of many farmers who otherwise must have succumbed. Landlords, such as Mr Hope Johnstone, Lord Hopetoun, and many others, gave an abatement. Mr Hope Johnstone gave as much as 40 per cent. With that, scarcely any of his tenants succumbed, and we did not require to give them indulgence; but, taking the country generally, the law was a great means of maintaining the position of the poorer class of farmers, who subsequently did well. Since 1842, or rather since 1844, the arable farmers with us have been doing greatly better, and the law of hypothec is less essential to them. Looking to the rent-rolls of the district for the last two centuries or century and a half, there seems to have been a pretty regular rise in rents and prices of stock till 1815. There came suddenly then a change of circumstances, requiring great indulgence or forbearance on the part of the landlord; and many landlords, especially trustees, would not or could not have given that indulgence, but for the security of the hypothec. Advantage still arises from it in this respect, that it encourages proprietors to take tenants depending not so much on their capital alone, as on their character and skill. All my observation in the district goes to show that it has been of much advantage in bringing forward those who otherwise would have had no opportunity of rising, while giving proprietors a larger field of choice. A considerable number of farm-servants, and others bred to agriculture, have been enabled to take farms of one plough, and from these to take larger farms, who could not have done so but for the encouragement given by the law of hypothec, and who must have given way to strangers with less skill but larger capital. I do not think that at present the tenantry of the district require indulgence in order to go on. I think generally speaking they have never been in a more thriving state. I think it a vast advantage to have a gradation of farmers in such a district as I am connected with. Generally I am favourable to the maintenance of the present law. In some points it stretches further than I think is necessary. On the sheep-farms the entry is at Whitsunday, and the rent is payable at Candlemas and again at Lammas, so that the right of hypothec extends for both half-years down to the 1st November following. I do not think it is necessary to go that length now. I would modify it to the extent that the right for the first half-year's rent should expire within three months of the time of payment. In the case of the back-rented arable farms—what we call Candlemas land—the hypothec extends over the crop so long as it remains, and over the stock for three months after the last half-year's payment. I would make the same rule as for the first. I would not allow it to extend over the stock and implements more than three months after each half-yearly term of payment. There is a tendency on the part of landlords to look to high rents, and that would be some check upon it. If the landlord did think right to exercise his hypothec within the three months, it would be known to the farmer's creditors and the public. I would have the list of sequestrations open in the sheriff-clerk's office. It might not be always prudent to publish it. I would have sequestration or retention in security for the current year competent before the rent is due, if the tenant is in circumstances to require it; but that is a strong measure. I have not known a case in Dumfriesshire of following the grain. I think the right to follow should be abolished, but I would require delivery and payment of price to show a *bonâ fide* purchase. I cannot say I would extend the exemption to sales in the stackyard. I have not had occasion to think of that. For the last twenty years, out of 150 farms I have not twice had occasion to exercise the right of hypothec. The rents generally have been most punctually paid.

Charles Stewart.

To Mr Curror.—The landlords ran little risk in granting indulgence during the depression. The other creditors' risk was diminished; for, if the farmer had been pushed, he could not have paid them, whereas, with some indulgence, he recovered and paid in full. After abatements were granted, I should say that, in the worst period, there was never above a fourth part of the rental behind. There were a good many sequestrations on other estates during that period, involving changes of tenants. In these cases, I dare say, the landlords lost something. I don't think many others suffered, for they were generally tenants with little debt. There have been very few sequestrations lately in Dumfries.

To the Lord Provost.—The Candlemas entry we found suitable for farms on which there was little wheat. On many of the estates the first half-year's payment was nominally at Martinmas, but on large estates, like the Duke of Buccleuch's and Mr Hope Johnstone's, it is Candlemas. For the last twenty years I have only had one case in which I had to hypothecate, namely, on a small arable farm. I would not recommend that any change should take place during the present leases. The proprietors would afterwards have an opportunity of making the terms of payment those at which they really intend to collect the rents, which would be advantageous to all parties.

(71.) Mr JOHN WOOD.

John Wood.

To the Chairman.—I am agent for the Commercial Bank at Colinsburgh, in Fifeshire, and am extensively employed as a factor in the management of estates. I have the management of six or seven estates, and have had ten or twelve in my hands in the course of my time. I am also a farmer, and have also been a brick and tile manufacturer. The gross rental of the estates I have managed is from £23,000 to £30,000, all in the county of Fife. My farm is one of 500 acres, and I pay £900 of rent. I have had it since 1848. I think the law of hypothec is beneficial, and have no reason to find fault with it in any respect. It has done a great deal of good and little or no harm. It has given encouragement to agriculture in various ways, and has been the means of increasing the cultivation of the country. High lands have been brought into cultivation, which would have been left altogether uncultivated, but for the small class of industrious men taking such lands. It enables such men as grieves, and others in humble position, to raise themselves in the world, and to take such land and bring it into cultivation, and I think it advantageous to the agricultural interest that that class should be encouraged. The abolition of the law would drive that class out of their present position entirely. I have had a great many tenants of that class, and have found them to be industrious and deserving, and punctual in the payment of their rents, and generally making money enough to educate their families, and put them out to trades. Many of them have been able to put out their sons in farms of the same kind, or they have gradually promoted themselves to better farms in better districts. I do not think that class of men would get the same amount of credit from other parties they now have from their landlords. I have not, as a tenant, experienced any evil effects of the law. It is my decided opinion that the law of hypothec has nothing to do with increasing the competition for farms. I have been upwards of forty years engaged as factor, and the law of hypothec never entered into my mind in letting a farm. I look more to the circumstances and character of the man than to the law of hypothec. I have had only three sequestrations in thirty-eight years, and two of these have occurred lately, owing to the depression of the times. None of the general creditors suffered in these cases. In one case of a very small farm, a trustee was appointed by the creditors, and he paid the rents; but the bankruptcy in that case arose not from the farm, but from the party being engaged in other business, and trading on credit,—a fact unknown to me when he took the farm. I have heard of comparatively few agricultural sequestrations in my district. I believe, for all that has been said against it recently, that three-fourths or four-fifths of the tenantry of Fifeshire are in favour of the present law, and I believe about the same proportion in every other county. As a banker I have been in the practice of accommodating farmers to a large extent, but the law of hypothec never enters into my mind. I look to the characters and means of the men. If the law were abolished, I would be guided by the same principles as now. When bankers lend money, they do not contemplate ranking on bankrupt estates.

John Wood.

To Mr Curror.—Much land in my management would not be taken, or even looked at, by men of capital. They go to better districts; and, but for the law of hypothec, much of the land in the higher districts would fall out of cultivation. I have known very few cases indeed, where the general creditors suffered by the landlord being paid in full. The losses have generally been where the tenants were engaged in other business besides farming. I never find any difficulty in getting good tenants.

To Mr Hope.—When I came to the county, much land in my district was in a state of nature. I know land, which would not have kept two sheep an acre, now brought into cultivation, and producing good crops, through the industry and hard work of the small class of tenants we get. Until within the last two or three years the tenants in my charge have paid their rents regularly. I think it would be difficult to get tenants for poor land without the credit the hypothec admits of. *Q.* Does the law of hypothec encourage men of small capital to offer high rents?—*A.* I think these men are as cautious of their small capital as men of large capital. Sometimes farms will let easily, and at other times with difficulty, but the law of hypothec has nothing to do with that; it is the price of farm produce which regulates it. The rise in the value of land for the last eight or ten years has arisen from the high prices of grain produced by the Crimean war, and from the high price of potatoes. The benefit of the law to proprietors is that they are sure of their rent, if they take steps in time. I do not think it creates any tendency to take tenants of too small capital and little skill.

To Mr Carnegie.—If the law is abolished, the terms of payment must be entirely changed; but I have not given this much consideration, as I cannot bring myself to believe that any material change will be made on it. My present terms are Whitsunday and Lammas, which is a year and a half's credit; others are Candlemas and Lammas, and Whitsunday and Martinmas. When I came to the county, on most of the estates under my management the terms were Whitsunday and Martinmas, but I changed them to Whitsunday and Lammas. I see no reason for limiting the amount for which a landlord can rank as preferential creditor to one year's rent. If the law were altered, I suspect we should have to come to fore-rents, which would have a most disadvantageous effect on the tenantry. I should be very well pleased to abolish the power of following the crop. It is a great hardship for any man to pay twice, if he has made a *bonâ fide* purchase. I think it is immaterial whether sequestrations are published. Publication might operate very much against tenants only in temporary difficulty.

To the Chairman.—I have not heard of any case in Fife of following grain.

To Mr Hope.—I think the difficulty would be felt all over Scotland, of finding tenants with capital sufficient to pay fore-rents. *Q.* Would the landlord not take less rent to obtain good tenants?—*A.* Not unless forced to do so; but I have already said that I do not think the law of hypothec has anything to do with the fixing of rents. In some instances I advertise farms; in others I have let by private arrangement. I always consider myself bound to take the highest offer from a good man. If not satisfied with the highest offerer, I take another. By a good man I mean a man of sufficient capital and skill. I have never found any difficulty in ascertaining if the offerers had sufficient capital for the undertaking.

To the Chairman.—I have had innumerable transactions with tenants without security with little or no loss. I do not think there is a safer class to deal with in the country. If the manure merchant would be ordinarily cautious, and inquire into the position of his customers before pressing sales, as they do on every one, I do not think there would be any losses whatever. I have had two tile-works going, one of them having been carried on for sixteen years, and making a million to a million and a half of tiles, etc., every year. The greater proportion of them were sold to farmers; and I looked up before coming here to see what I had lost by farmers, and I found the amount was only £7, 18s. If a man drains his land, there is of course less risk with him.

Tuesday, February 14, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.
MR MURRAY.
MR HOPE.
MR M'LAGAN.
MR CURROR.

(72.) MR JAMES BETT.

James Bett.

To the Chairman.—I am factor for the Breadalbane estates in Argyllshire. I have been so for three years. For thirteen years previously I was factor on the Lochiel estates in Inverness and Argyll. The Lochiel rental was about £10,000; the Breadalbane rental fully £23,000. The farms are principally pastoral, and we have no purely arable farms. The entry is at Whitsunday as to houses and grass, and at the separation of crop as to the arable land. The first half-year's rent is payable at the first Martinmas after the Whitsunday entry. By Martinmas the farmer has reaped most of his crop. I think the law of hypothec has proved beneficial to by far the largest number of tenants in Argyll. It has enabled many of them to take land who otherwise could not have done it. The landlord has, as it were, advanced part of the capital, and a great many of the tenants have prospered in that way. The rents range on these estates from £8 or £10 to £3000. There are about 220 tenants on the Breadalbane estates. To the great majority the law of hypothec has been beneficial, principally to the smaller tenants. I do not know of any bad effects to the tenants in our part of the country, by inducing undue competition or otherwise. The larger farms are almost invariably let to practical agriculturists. Sometimes we advertise the farms, but, if we can get a tenant without advertising, we prefer letting it in that way. I generally value the farms, and, if I can find a good tenant who will take it at the valuation, I let it in that way; if not, I advertise. If the law of hypothec had not existed, very likely the smaller farms would have been thrown into larger holdings—a conversion which would be beneficial for the landlord. A great many of the small farmers have risen from being shepherds or managers of stock—probably first a shepherd, then a manager, and then a tenant; and they have generally taken larger farms on the expiry of their first lease, or sometimes they have got an addition by smaller holdings being put into it. I know of no case in Argyll in which grain has been followed into the purchaser's hands, but I think it objectionable in principle. I would allow any sale whatever to be free of hypothec if done in good faith, whether in the stackyard or market, but I would require it proved by delivery and payment of the price. *Q.* Has the difficulty occurred to you, that to abolish the power to follow would be in some degree giving up the principle of the law of hypothec, that the year's rent is secured on the year's crop?—*A.* It would be limiting the extent of the hypothec. I believe I represent the opinions of the farmers in my district who understand the question, but a good many of them do not understand the bearing of the law. The evidence I have given is applicable to my experience in Inverness-shire. The class of tenants are very much the same, only that there are more of the small tenants in Inverness-shire. I believe the abolition of the law would produce an immense change. The small tenantry would to a large extent be turned off. They must go to the towns or emigrate, for there is no other employment for them in that quarter.

To Sir W. Gibson Craig.—I never had any sequestrations on the estates in my charge. I have only heard of one in the west of Inverness or Argyll during the last sixteen years, and that occurred the other day. There was no loss there to the other creditors.

To Mr Curror.—For the last three or four years the sheep farmers have been pretty well off. The small tenants are diminishing in number. I do not consider it advantageous to have them to any great extent. They enter at the same terms as others do, paying in six months. If the law of hypothec were abolished, I think the landlords would require prepaid rent. I never let a farm without

James Bett.

inquiring into character. *Q.* Would the landlord not be safe with the present terms of payment though he had no law of hypothec?—*A.* In some cases he might trust the tenants of whom he knew everything, but generally speaking he would insist on prepaid rents.

To Mr Hope.—There have been a good few changes within the last five or six years with me, owing to leases falling out. The rents have been increasing for grass farms, and old tenants in some cases do not see their way to give the advance offered by others. The shepherds are generally paid by a money wage, but in some cases they have so many sheep. The farms they may take of course depend on their success or saving habits. They generally take a farm equal to their capital, whatever it may be. I have known no instance of a man who got up to be a farmer returning to the shepherd class.

To Mr Murray.—I believe the small tenants could not prepay their rents; it would be quite impossible. The population would be lessened in the rural districts were these farmers unable to keep their ground. I see no great objection to sequestrations being published.

To Mr Curror.—Many of these small tenants have been on the ground for generations, but I do not believe that as a class they are much better off than they were a century ago. The small farms are higher rented in proportion than the large, there being greater competition for them.

To the Chairman.—Though not making rich, they are getting on respectably, and educating their families. Their houses are generally bad. In some cases the tenants keep them up. On the Breadalbane estates the landlord keeps them up. On the Lochiel estates the tenants did a good deal themselves for them. Their sons generally become farmers.

To Sir W. Gibson Craig.—I have not seen many changes among the smaller tenantry. It is not an easy matter to make changes among them.

(73.) Mr JAMES WYLLIE.

James Wyllie.

To Sir W. Gibson Craig.—I am factor for Lord Breadalbane on his Perthshire estates, and I have been so for nearly two years. I was previously assisting my father for nearly nine years; he was factor for thirty-two years. I had the management of the Luss estates for upwards of a year before I entered on my present charge. The rental of the Breadalbane estates in my charge is about £28,000. That is independent of the trust estates, of which my father still retains the charge. The rental of Sir James Colquhoun was about £17,000. The number of tenantry on the Breadalbane estates in Perthshire is about 150 at over £30. The grazing farms with part arable run from £150 to in one case £1375. The arable farms are on an average £70 of rent. We have none purely arable. I had both classes on the Luss estates. I have not found the tenantry sustain any inconvenience whatever from the law of hypothec. I think it has been beneficial to them. For example, in Perthshire we do not ask them to pay rent, in the case of arable farms, till a year and a half after they have entered. They have two years' grass and one year's crop before they are required to pay. On the grazing farms they pay the first half at Martinmas after entry, and the next at the Whitsunday following; but, before they have paid the first half, they have made their full rent. They make all their sales before Martinmas. I have had no sequestrations on any of the estates in my charge. I believe my father had not six in thirty-two years. I have known of very few on the adjoining estates. I never heard it complained of that the creditors of farmers suffered by the law of hypothec. I think the Breadalbane tenantry would feel it a great disadvantage if the law were repealed. They would be placed in a different position; and I believe the great proportion of them could not pay forehand rents. I do not think many of them have taken much interest in this question. In the event of the law being abolished, I would consider it necessary to have prepaid rents in the case of both classes of farms. The tenants of the small farms would have to leave the country, or at least to seek a living as farm-servants, or otherwise; and the tenants of large farms would have to take smaller farms to suit their means. The landlords would require the rents to be paid at entry, and to have even some security besides. I think the relation between landlord and tenant would not be so satisfactory as now, because I believe the landlord would have to deal more sharply with his tenants and to

James Wyllie.

look more strictly after his estates. He could not give the same indulgence or assistance as at present. I would modify the law to the effect of giving sale by sample the same privilege as sale in bulk. I do not think sales in the stackyard should be free, unless intimation be given to the proprietor or factor. I would only hold the sale unchallengeable, if the grain were delivered and paid for. I do not think there could be any objection on the part of the landlord to the publication of sequestrations, but I dare say it might affect the credit of the tenant in some cases, such as where sequestrations are applied for but not enforced.

To Mr Curror.—We have a great many crofters. They are in a poor state generally. They have usually some trade besides managing their croft. We are diminishing that class as opportunity offers. They generally occupy thatched houses, kept up by themselves, getting wood from the proprietor at a reasonable price. They sometimes work to farmers in the neighbourhood, and the proprietor employs a good many of them. Some of them are weavers. Part of the grazing farmer's stock is sent by him to market, and part is bought up by drovers before Falkirk and Doune Trysts. The stock is off the farm before the rent is due. I have known no instance of stock being followed after being sold. The farmer has to sell to pay his rent, but there is always a remainder on the farm sufficient to secure the landlord.

To Mr Hope.—There is nothing to prevent the farmer taking away the remainder, but he could hardly do so without its being known. We have a considerable number of mixed farms, averaging about £70. The rent is due at 1st March and 1st August, but not collected for a year and a half after entry. On the Luss estates they pay at first Martinmas following entry, and the next rent at the Whitsunday following. The entry is Whitsunday, but there is no waygoing crop in that case. The proprietor, where he can, is purchasing up the waygoing crop, so as to make it clear at Whitsunday. These small tenants have generally been a long time on the ground. They are moderately rented, and they are greatly improved in circumstances within the last few years, but still I do not think they would be able to prepay their rents. There has not been any great change of late in the tenants of grazing farms. There has been a considerable rise of rent in some cases. I think the large farms are worth their present rent. On the arable farms the tenants are using more and more artificial manure every year. I am not prepared to say whether the condition of prepayment would lead to a reduction of the rents. A very small proportion of rents has been recovered under this law on the Breadalbane estates. I think the risk would be greater to the landlord if the law were abolished. *Q.* Are the farms high rented on which the payment is postponed for nearly two years?—*A.* I think they are fairly rented according to the times.

To Sir W. Gibson Craig.—I think the abolition of the law would be as injurious to the tenant as to the landlord. The smaller tenantry have in most cases been several generations in their farms. They are an industrious, well-doing class, and they are generally well-educated people for their position. They are contented to go on in the old way, holding their farms, supporting themselves and educating their children.

To Mr Curror.—I do not think that class are in so comfortable a position as labourers in good employment. I speak of those who depend entirely on their crofts; but they would rather hold their small farms than be labourers to other men. Whenever we have opportunity, we are glad to reduce the number; and the reason we do not more generally throw these small farms together is, that we really do not wish to clear the country of the people. When we do it, it is to get rid of those who are not doing well. In that case we generally throw the farm into the adjoining one; and in some cases, where we have to put up new buildings, we generally try to throw two or three together. If we do so merely for convenience, we generally contrive to get another holding for the man who is thrown out.

To Mr M'Lagan.—We get our best farm-servants, both male and female, from the class of crofters. They are generally industrious, tidy and neat, good servants, and economical in their management. I cannot say there are many of the small farmers who have formerly been shepherds and grieves, but there are some. They do not come into the larger farms, but generally into those of about £30 rent, and from that they are perhaps able to go to a farm double the size. There are some of the small farmers whose fathers have been farm-servants.

(74.) Mr WILLIAM FLETCHER.

William Fletcher.

To Sir W. Gibson Craig.—I am a farmer at Howden in Selkirkshire. I have been a farmer for forty years, and my father and grandfather were farmers. Howden is about 700 acres imperial. It is nearly all arable. I keep nearly 400 acres in rotation, and the rest in pasture. The rent is above £500. I have another farm in the north corner of Roxburghshire of 120 acres, rent £150. I left an adjoining one at Whitsunday last of 250 acres. I was a farmer in Lauderdale for many years. I have several times experienced inconvenience from the law of hypothec. On one occasion I bought, at a neighbouring farmer's door, a brood sow just about pigging, and unfit to be removed to the nearest market. I was anxious for that breed, and, a few days after, brought her home, a distance of about half a mile. She three days afterwards pigged a litter of ten pigs; but the tenant was sequestrated a week after, and the landlord's factor demanded the sow back. I resisted on the ground that she could not be taken to any other market in the state she was; but the matter was referred to a highly respectable writer in Kelso, who gave it against me, and the sow had to be returned three weeks afterwards, with her ten pigs. That was a loss of £5, and I felt much aggrieved. Another case was that of a farmer in Lauderdale, to whom I had sold some seed-corn and never got payment. He was an excellent farmer, with 600 or 700 acres, of which 550 would be arable. In the course of four years he laid out £1100 in lime, and he had required a cash-account from a banker in Galashiels to the extent of £1000. His cautioner died, and he tried to get another, but every one to whom he went declined on account of the law of hypothec; and he came to me with tears in his eyes, and said he would be obliged to give up his farm. He lost about £2000 in the farm—£1100 in lime, and £600 in fencing and improvements; and though he had to pay for the straw of 200 acres when he entered, the landlord would not allow the creditors to take it, stating that the tenant was only entitled to it at the end of the nineteen years' lease. The straw would come to more than £200; and he had put up a threshing-mill, for which he got nothing but the removal value. The rent was £630, but after his improvements it was let at a rise of £110 on a lease of nineteen years. I think the dividend was 8s. per pound to his creditors; the landlord was paid in full. The creditors allowed him £20 to assist him to remove, and also two cows and all his household furniture; the landlord when applied to would not allow him anything. I believe he would have done well if he had got a cautioner, and that he would have benefited by his liberal outlay. His successor, I believe, made several thousand pounds out of the farm, and last year left to take a larger farm elsewhere. Had the money been his own, he would have carried on successfully; and had it not been for the law of hypothec, he would, I believe, have got a cautioner. If the law of hypothec were done away with, I see nothing to prevent a farmer getting money on loan as well as a merchant. I believe bankers are deterred from lending money by the law of hypothec. As one of the trustees I tried what we could to carry on the farm, but the landlord would give us no facilities. The creditors, without a dissenting voice, would have lain out of their money, if the landlord had let us carry on the farm.

To Mr M'Lagan.—The farmer was thought a first-rate farmer. Although he got a first cautioner, he could not get a second. He came to me and said that several of those to whom he applied would have lent him money but for the law of hypothec.

To Mr Curror.—I think the law of hypothec has a tendency to make the landlord depend not on character and skill, but on capital to stock the farm.

To Sir W. Gibson Craig.—I think landlords and factors sometimes take tenants of neither capital nor skill. I am comparatively a stranger in Selkirkshire, but I think that is the case in Lauderdale. *Q.* Your friend was ruined by farming on borrowed money, and you think the abolition of the law of hypothec would enable farmers more readily to borrow money?—*A.* I think it would be advantageous to the tenant, when he runs short, that he should not have to quit a farm in which he has sunk so much capital. *Q.* But under the law of hypothec the tenant virtually borrows money from the landlord for a year and a half or two years; is not that the most convenient way of borrowing money?—*A.* I am of a different opinion. I think the tenant gives as much credit to the landlord as the

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landlord does to the tenant. Suppose a farm of 500 acres of arable land, farmed under a five-shift course,—that would make 200 acres of grain, 200 of grass, and 100 of turnips; and suppose the rent to be 32s. an acre, that is £800, entry at Whitsunday,—by giving the tenant eighteen months to pay, the landlord gives a credit of £1200. Now turn to the other side. The first year of the lease the tenant has 100 acres of fallow land for turnips; but at first he limes only fifty acres, which, at £3, 10s. each, is £175. The outgoing tenant has the straw of the waygoing crop, which the incoming tenant requires to purchase, 200 acres at 30s.,—£300. The second summer he limes the whole of his fallow break—100 acres at £3, 10s. each,—£350. He has also to buy foreign manure for his turnips, probably about £200; but I think the tenant gets the benefit of that to a certain extent, and I will count only the half sunk into the land. By putting in foreign manures the tenant gets a crop, which probably returns him half the value the first year, but the other half is sunk into the land. All these are outlays which the tenant, if he fails at the beginning of the lease, cannot carry away. He has generally to pay a considerable sum for carriage for building, and I think I am within the mark when I say £100 for that. He cannot put up a threshing-mill under £160; and if thrown to the door, that is the best half of the price lost—£80. I have therefore shown that the tenant lends or sinks £1105 to the landlord against £1200 lent by the landlord, making a balance of £95 for which the tenant only gets credit. All these sums so lent or sunk by the tenant could not be carried away by creditors, and would permanently benefit the land.

To the Chairman.—Q. Is lime a permanent benefit to the land?—*A.* I would consider it should be taken out in nineteen years. I go on the next year with my calculation, and show the tenant has sunk £1325, the landlord still crediting the tenant with £1200, for the tenant is always a year and a half behind. The tenant, in fact, is sinking more money every year for five or six years, and the whole value is often not taken out at the end of nineteen years. It is the last five years of the lease that should realize the profit. It might be fair enough to ask the tenant to prepay or fore-rent the last five years of his lease, or find caution for a year's rent. There is no danger the first fourteen years of the lease, for the tenant is always putting in quite as much as the landlord is giving him credit for. All that is taken in Lauderdale for granted is, that he is a good, judicious, and liberal farmer. If the law were changed, I think the landlord would be more particular in inquiring into the character and skill of offerers. In Lauderdale it used to be the constant practice to advertise the farms. On stock-farms, I think when entry is at Whitsunday the first payment should be the Martinmas following; it might even be Lammas, but on arable farms they ought to be back-rented. I know of a case where fore-rent was offered but refused, in consequence of the law of hypothec. The landlord, having the law of hypothec on his side, knew he would have a better competition without fore-rents. The landlord in question always took the highest offer. I never knew a case in which the highest offer was refused; and farms were sometimes let to people who were not practical farmers. One was a baker, who took a farm of 400 acres and failed, paying twopence per pound to his creditors. I know of other two cases in Lauderdale where the landlord was paid, but the creditors got nothing. In that district there have been six or seven sequestrations in ten years out of twenty or thirty farmers. The estate to which I refer has been much improved of late years by the tenants. I could mention a case there where a farmer laid out a great deal of money for improvements, but at the end of the lease another's offer was taken, and he got nothing for his improvements. Good tenants do not like not to be improving their farms. When I left my farm in Lauderdale, I expected to get it again. My rent was £310 for 340 acres, and I had improved it so that it was worth a great deal more; but a man who had not been a farmer, and was reported to have a small capital, was preferred at £600—the landlord trusting to the security of the hypothec. It is commonly reported that the tenant has been sequestrated every year for three years. It is six years since I left Lauderdale. I am at present on the borders of the stock-farmers of the Duke of Buccleuch. They seem all to be safe. I am glad to say sequestrations are not frequent there. I do not hear the Selkirkshire tenantry complain of the law of hypothec. They are all in comfortable circumstances, being in the near neighbourhood of the Duke of Buccleuch. I am in favour of the total abolition of the law of hypothec. I think it would be hailed as a great boon by agricul-

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turists generally. It would be a great improvement both to landlord, tenant, and merchant.

(75.) Mr JAMES GEDDES.

James Geddes.

To the Chairman.—I am a farmer at Orbliston in Morayshire, and have been engaged in agriculture for upwards of thirty years. I am assessor under the Valuation Act for the county. I am, I suppose, the largest tenant of the Duke of Richmond there. I farm 900 acres in all, and my rent is about £700, but rises in consequence of an improving lease. I have some practice as a factor on two properties. I have been secretary of the Morayshire Farmers' Club for the last thirteen years. I have been a good deal engaged in the valuation of estates and other land matters. I have had charge of extensive farms as a trustee, and have acted generally as an adviser in agricultural matters. I am well acquainted with the feelings and opinions of the tenantry on agricultural questions, in the counties bordering on the Moray Firth. The Duke of Richmond's farms are arable; there are few pastoral farms in the district. We enter at Whitsunday to the houses and fallow land, and first and second year's grass, and third year's grass if any. A large proportion of the district is on a five-course shift. We pay for the grass on entering, or at Martinmas, also for the working of the fallow, and for the dung and straw of the farm. The landlord is bound to relieve the outgoing tenant of these, and the incoming tenant takes it off him again. We enter on the arable land at the separation of the crop. We pay our first rent eighteen months after entry, and on some estates not till the subsequent Candlemas. We have, as I have shown, large sums to pay when we enter. The valuation of the grass, fallow, dung, and straw generally amounts to more than a year's rent. On a well-managed farm I have seen it amount to a rent and half. Sometimes that is only partly paid on entering, and the balance at first Martinmas. There is a considerable diversity of opinion among the tenantry of the district as to the law of hypothec; but the general feeling among intelligent and practical farmers and professional men is, that there ought to be a large modification of the law, and that is quite my own. I think the following of grain ought to be abolished. On that point there is but one opinion. I think a *bonâ fide* sale, wherever it takes place, ought to be protected. The bargain would, I think, require to be proved by delivery. *Q.* Under the Mercantile Law Amendment Act, sale is good without delivery?—*A.* I would say it is not a *bonâ fide* sale without delivery. A man is bound to deliver what he sells, and the receiver to pay on delivery. I should be disposed to give the landlord a certain security, but I would curtail his right of hypothec to forty days after the stated term for paying the rent. I would give him a right of hypothec every half-year for thirty or forty days. If not exercised in that time, he would then be on the footing of an ordinary creditor if the tenant failed; and, if sequestration took place in the interval, while the hypothec lasted, I would make it public. I do not think the change I propose would operate harshly with the greater part of the tenants; there might be cases in which it would operate harshly. There is generally a good feeling between landlord and tenant, and any man worthy of credit would not be annoyed with the exercise of the hypothec. I am decidedly favourable to the publication of sequestrations. I think I speak the opinion of the large body of tenantry who have taken the trouble to think about the matter. I do not speak perhaps the opinion of factors, whose views vary very much. I find many of them wish the law to remain as at present; others would go into such modifications as I have indicated. I have heard gentlemen extensively connected with the management of land state, that they could work their land quite well without any hypothec.

To Mr M'Lagan.—Suppose the tenant to fail in September, and the rent to be due at the preceding Lammas, the landlord could only sequestrate for the Lammas rent, but he would have a preferable claim for the whole rent of the next year.

To Mr Hope.—*Q.* If the tenant fails the first year, does the grass, etc., become the property of the landlord?—*A.* In leases there is generally a clause of irritancy, and if the landlord has lost his right of hypothec, he says to the creditors, 'I have lost my hypothec, and can only come in *pari passu* with you: but unless you pay me up the arrears, I will not give you the rights of waygoing tenants as to the grass, fallow, and dung.' I have known that happen again

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and again; but the creditors are generally too happy to pay up, as these things are worth more than the rent on a well-managed farm. *Q.* In that case there would be no need for the hypothec?—*A.* Not the slightest, so far as regards the landlord. I do not think the tenantry are doing much good at present in my neighbourhood, except in the case of the men who do largely in stock. The man who can lay on more stock and raise large green-crops is doing well; but the man who does not know the management of stock, or has not the capital to throw into it, or who may not occupy good turnip soil, is not doing much good at present. *Q.* Have there been many sequestrations in your district lately?—*A.* Not many. The landlord is lenient, and a considerable reduction in rent has been given in some cases. Others are giving up their farms voluntarily; and these farms are relet at a large reduction, of late years. I think there is a general feeling that the law of hypothec has raised the value of land artificially; among the more intelligent tenantry that is the general feeling, and I quite coincide in it. I know that in many cases a greedy landlord has let his farms by competition to the highest offerer. They have let the farms sometimes to men of straw at a great advance of rent; and the consequence is that, on neighbouring estates, where the landlord has really no desire to extract more rent than the land is worth, the matter is referred to a valuator, who goes to the adjoining farmer and says, 'Here is a farm known to be not so good, and you see the rent that is given; the man is still in possession, and so far as we know able to meet his engagements, and I cannot put a less value on your land than has been obtained for his.' The consequence has been in many cases that the former occupant, perhaps come to a time of life that he does not wish to remove, is saddled with a higher rent, in consequence of a man of straw having taken land alongside of him, and which in the course of a few years he is obliged to go out of, unable to make his rent, while the other man must go on to pay.

To the Chairman.—In some cases these men of straw go voluntarily out without sequestration; in a few cases they have been sequestrated. *Q.* You think the modifications you suggest would obviate all that?—*A.* It would, I think, be a wholesome check upon it.

To Mr Curror.—I have scarcely known instances of the landlords losing money; but the other creditors of the bankrupt farmer get little or nothing.

To Mr Hope.—We use foreign manures very nearly to the extent of another rent, and we also use feeding-stuffs largely. The quantities used have been increasing very fast within the last two years, more particularly this season. We are consuming a great deal of the grain we grow on the farm, mixing oats, wheat, or barley—ground or bruised along with oil-cake,—in short, manufacturing food in every way we can. We are obliged to throw more capital into the land, and I believe but for that we could do no good or save ourselves.

To Mr Curror.—We are practically fore-rented in our district already by the payments to which I have referred. If we were to pay forehand rents, it would be practically paying two rents on entry.

To Mr Murrcy.—I think the small tenants at present are as well able to meet their engagements as the large. I have been told by bank-agents that, if it came to forehand rents, they would be more inclined to advance money to the tenants, if they saw a chance of ranking *pari passu* with the landlord—if they thought that at the worst they would get a good dividend. I think bank-agents are always willing for some risk. It is a matter of mercantile speculation in other cases, why not in ours? I have heard a factor, who collects about £20,000, say that at a meeting of creditors he felt ashamed of his position, when, after the tenant had improved the farm at the expense of his creditors, the landlord came in and swept the whole away, the factor having been the means of introducing the tenant to the farm. In this case the factor told me he had made every inquiry, and had had reason to be satisfied. I admit it is difficult to know in all cases whether a man has sufficient capital. If a man is inclined to do the thing that is wrong, he will find the means of misleading you. I have heard of the case of a man borrowing money and putting it into the bank, and referring the factor to the banker, who would of course state that the man had so much at his credit. I should think there may be 600 tenants on the Richmond estate, but a large proportion of these will be under £100 a year. The Duke's estates are extensive, and are partly in Aberdeen and Banff, and I am not so well acquainted there; but I should think the Duke's tenants in my parish would be able to pay a year's rent in addition if required. I should

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think there is not a sixpence of arrear in their case. It may be taken for granted, that those whose farms are well stocked with cattle would manage to pay forehand rent.

To Mr Curror.—The Duke has not more than £6000 of rental in Morayshire; his estates are mostly in Aberdeenshire and Banffshire.

To Mr Murray.—On the Duke's estates there are not many farms above £300, and only two above £500. The tenants do a good deal on these estates. We have to lay out a considerable sum upon buildings. I recently renewed the lease of both my farms from the Duke of Richmond, and had to lay out between £400 and £500 on building houses; and if I went down during the currency of my lease, they would fall to the landlord. But the tenants are told that they don't pay so high a rent as they would have to do, but for their expenditure on these buildings. I should say that, as a whole, the Duke's estate is moderately rented. Taking into account what the tenants have to do with reference to these buildings, I should say it is only fairly rented. I know one tenant near me, who has had to lay out five or six rents in building houses and improving the farm for himself, the Duke only giving wood and slates. That is a great outlay for a tenant, but there is a very good feeling between the Duke and his tenantry.

To Mr Hope.—We are bound to keep up the houses in a sufficient state of repair.

To Mr Murray.—In some cases the tenant must support the houses to a valuation of say £1000, and if he likes to build to the extent of £500 further by agreement, that is allowed for at the end of the lease; but in some cases the houses are handed over to the tenant on inventory, and that inventory must be supported. If they are not worth the sum at the end of the lease, the tenant has to pay the difference; but, if they are worth more, he receives nothing.

To the Chairman.—If the law were modified to the extent I have suggested, I think that in ten years it might be abolished altogether, and things would work pretty much as they are. If the law were abolished entirely now, I would not interfere with existing leases, unless so far as following the grain and getting it twice paid; but if it were merely modified to the extent I have suggested, I think it should apply to existing leases.

Wednesday, February 15, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.	MR HOPE.
HON. MR CARNEGIE.	MR M'LAGAN.
THE LORD PROVOST OF EDINBURGH.	MR CURROR.
MR MURRAY.	

(76.) GEORGE DALZIEL, ESQ., W.S.

George Dalziel.

To the Chairman.—I have been a Writer to the Signet for upwards of forty years. I am a partner of the firm of Gibson Craig, Dalziel, and Brodies, W.S. We are law-agents for many landlords, some of whom are very large proprietors; and we are also factors, collecting the rents and managing the estates of several landed proprietors. The aggregate rental of the various properties in reference to which we act for proprietors, I believe is upwards of £200,000 a year. For forty years I have had considerable experience in matters between landlords and tenants. The law of hypothec has frequently been under my consideration. I think it must be considered in three aspects—1*st*, as between landlords and tenants themselves; 2*d*, as regards purchasers from tenants; and 3*d*, as regards the public or creditors of tenants. I think that, upon the whole, the existing law is one founded on justice to landlords, and practically

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of benefit to tenants. I think the total abolition of that law would be injurious to both. It is a law which has existed for centuries. It exists in other countries besides Scotland, with certain variations. It has been defined by the late Professor Bell, in his Commentaries on the Law of Scotland, as follows:—'Hypothec is a real right of security similar to pledge, but not requiring possession; introduced by consuetude, and favourable to tenants as saving them from personal and sudden diligence for their rent.' The law of hypothec exists both as regards agricultural farms and urban tenements. By the latter I mean dwelling-houses in town or country, shops, mills, and manufactories. There are some trifling variations in the operation of the hypothec in agricultural farms and urban tenements, but substantially the law is the same in both; and the abolition of the law with regard to one class of subjects must necessarily be followed by its abolition with regard to the other. The law of hypothec, both as regards agricultural and urban subjects, is matter of public notoriety. Parties dealing with landlords and tenants cannot be ignorant of it. Purchasers have acquired estates upon the faith of this law, and so have tenants in taking leases of farms. Persons dealing with both of them have transacted in the knowledge of its being so. In the great majority of cases in Scotland, so far as my experience goes, the rent is back-rented, thereby giving the tenant the benefit of the reaped crop to pay his rent. On the estates with which I am most familiar, I should say that back-rents largely prevail. The right of hypothec is not merely calculated to give security to the landlord for the payment of his rent, but it enables him to give indulgence or delay to his tenant when expedient or necessary, so as to afford the latter time to sell his crop or stock to more advantage. Those tenants who are in straitened circumstances may have found the benefit of this. I observed it stated in one of the public prints lately, 'that the factor for a large landed proprietor had given intimation to the tenantry, that only half the amount of the rents due at Martinmas last would be expected on settling-day. The reason said to have been given for this concession is, that the farmers may not be compelled to throw their stock or grain on the market at present, and so perhaps have to sell at disadvantage. The other moiety of the rents due is to be called for in February.' This is no singular case; for all who have had much to do with the collection of rents know, that tenants sometimes require a little time to sell their crop and stock advantageously; and this time of course would not be given but for the security the landlord holds in virtue of his hypothec. I am decidedly of opinion, that that indulgence could not be given but for the existence of the hypothec. I don't think that this indulgence is given by the landlord at the expense of other dealers. I have always looked upon a landlord and tenant as holding a joint interest in a farm. I have understood that, when a tenant takes a farm, he generally calculates, when he makes an offer, that one-third of the produce shall go for rent in the first instance, one-third for seed, manure, and labour, and another third for interest of capital or profit. I see no justice in creditors having a claim both on the tenant's interest in the farm and also on the landlord's interest therein, for the payment of their debts. I think it is a mistake in persons who represent the law of hypothec as a crying grievance, and of constant and frequent injustice as regards *bonâ fide* purchasers from tenants of their crop and stock. I know of but two cases, since the end of last century to the present time, in which *bonâ fide* purchasers of grain have appealed to the law for protection; the one case being that of the late Earl of Dalhousie, which was decided by the House of Lords in the year 1830, and the other that of Graham Barns, which was decided by the Court of Session in 1864. Both applied to purchasers of grain not sold in open market, and both were decided in favour of the right of hypothec. After Lord Dalhousie's case was decided in the House of Lords, Lord Brougham brought in a Bill to modify in part the law of hypothec; but, not having met with sufficient support either from the landlords or tenants in Scotland, he abandoned his Bill. There may have been instances of *bonâ fide* purchasers of grain being called on to repeat the price to the landlord, without any resort to the law, but I believe these not to have been of frequent occurrence. For the last forty years of my experience, I have no recollection of having had a single case, or of being professionally employed on behalf of any landlord, for restoration of grain sold to a *bonâ fide* purchaser; and I believe it will be found, on getting returns from sheriff-clerks of counties in Scotland, that such cases have been marvellously few indeed—certainly not such as would give ground for the complaints which have

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recently been raised on the subject. All grain sold in bulk in a public market to a *bonâ fide* purchaser, and all cattle sold *bonâ fide* by a tenant, whether in public market or not, are not reclaimable by a landlord. The landlord's hypothec is only available for the crop of the year when the rent is payable, and, if sequestration be not applied for as regards the stock within three months after the rent of the year is due, the hypothec is lost. This limitation in time is a protection to other creditors. Servants' wages and taxes are preferable to the landlord's hypothec. Looking to the fact that these cases are of rare occurrence, and to the fact that sales by bulk in public market are protected, I see no objection to a modification of the law as regards the following of grain sold to a *bonâ fide* purchaser, provided always that the sale is completed by delivery, and also by payment of the price. But it should be a *bonâ fide* commercial or mercantile sale, and not one for the purpose of defeating the claims of other creditors. Even though the sale was made in the farmer's stackyard, I don't think it should be made necessary for the farmer to give previous intimation of it to the landlord. I would hold the making the thing complete by delivery equivalent to selling by bulk in the market. I don't think this modification of the law would alter its principle. If the sale is *bonâ fide*, one of the objects of making it may be to pay the landlord's rent. I know that it has been contended by some who desire the abolition of the law of hypothec, that landlords have only to look out for tenants of capital who can pay the first year's rent before they reap the crop. Now this is obviously a restriction of the landlord's right to choose his own tenants. It would create something like a monopoly in favour of tenants who have ample means, and so exclude those who have less means. It does not follow that a person who has ample means will always make the best tenant. On the contrary, experience has shown that many of the best tenants in Scotland have either risen from the plough, or been persons of limited means. The right of hypothec enables the landlord to select any one for a tenant; and I know no reason why a landlord should not be entitled to make the most of his property, just as a merchant is entitled to sell his merchandise to the best account. Those who contend for anything like a monopoly, in favour of those tenants who are rich, forget what is due both to landlords and the middle or smaller class of tenants. It has been said, and I think with truth, that the law of hypothec is very beneficial to the middle or smaller class of tenants; and if so, it is important to bear in mind that the large majority of tenants in Scotland are those who occupy smaller farms. I have obtained an abstract or analysis of the valuation rolls made up under the recent Act, showing the rents paid by tenants under different heads of the following counties, viz. :—

	The Number of Tenants who pay Rents ranging						
	From £100 to £200.	From £200 to £300.	From £300 to £400.	From £400 to £500.	From £500 to £700.	From £700 to £1000.	Above £1000.
Haddingtonshire, . .	53	50	40	33	57	46	41
Berwickshire, . .	87	72	54	56	84	67	41
Roxburghshire, . .	170	115	95	58	71	59	30
Dumfriesshire, . .	537	209	92	47	41	17	3
Perthshire, . . .	944	382	165	80	47	27	9
Kinross-shire, . .	70	39	27	11	5	4	...
Forfarshire, . .	415	223	131	74	91	34	13
Kincardineshire, . .	262	78	44	18	17	7	1
Total, . .	2543	1168	648	377	413	261	138

I have no doubt that the middle or smaller class of tenants in other counties in Scotland form by far the largest proportion of tenants, and to them I consider the law of hypothec as especially valuable. It is universally known in Scotland, that the middle or smaller class of tenants are a most industrious and deserving class, and many men of eminence in agriculture and otherwise have risen from them. So far as my experience goes, it is not of frequent occurrence that sequestration becomes necessary among them for securing the landlord's right of

hypothec. I should say that we would be consulted generally as to any cases of sequestration on the estates for which we are concerned, though there are cases in which the factor might sequestrate without consulting us. As a rule, sequestrations have been very rare on the estates for which we are concerned; but of course there are proprietors who are obliged to resort to it occasionally. The larger arable farms are mostly in Haddingtonshire, Berwickshire, Roxburghshire, Mid-Lothian, Perthshire, and Forfarshire.

To Mr Hope.—The rents given in the table are rents paid by separate tenants.

To Mr Murray.—They are separate possessions. There may be cases in which more than one is held by the same man, but these are so few comparatively as scarcely to be worth mentioning.

To the Chairman.—We act for proprietors in all of these counties, and I never found any want of due care on their part in the selection of their tenants. The proprietors for whom we act invariably look not merely to the means or capital of the tenants offering for the farms, but to their skill or practical knowledge. I have not found it to be the practice among them to accept the highest offer without regard to these considerations. I know it to be the opinion of the Marquis of Tweeddale, one of our clients, and who is well known to be a most enlightened agriculturist, that he regards skill and practical knowledge in a farmer as essential to the making of a good farmer, and of not less importance than capital. His lordship is not in the habit of advertising his farms when out of lease; and, within my knowledge, it has very rarely indeed been necessary to apply for sequestration against any of his tenants for the last forty years. Besides acting for many proprietors in the lowlands, we act for various landed proprietors in the north. One of these has large estates in Aberdeenshire and adjacent counties. He has a large number of tenants. Of the class whose rents range from £100 to £300, there are 105 tenants. There are 217 tenants who pay £20 and under £50; 123, £50 and under £100; 81, £100 and under £200; 24, £200 and under £300; 11, £300 and under £400; 3, £400 and under £500; and 1 above £500,—making 460 tenants above £20; and there are 251 above £5 and under £20; total, 711. These farms are back-rented. The entry is at Whitsunday as to the houses, grass, and fallow, and to the remainder of the land at the separation of the crop. The first half-year's rent is payable at Martinmas, being a year and a half after entry to the houses, and the next half at Whitsunday following. There are no exclusively grazing farms, although there is grazing attached to many of them. The terms of entry and of the payment of rent are the same in all cases. Any fundamental change in the law of hypothec would, I think, be most injurious to these tenants. They are a very deserving, frugal, and industrious class, but the factor tells me he does not think they have much spare capital, and they could not pay fore-rent,—that the pressure, if put upon them, to pay fore-rent might throw many of them into difficulties, and disable them from making any improvements. Their inability to pay fore-rent would probably deprive them of the advantage of leases. The want of leases, and the want of confidence which would result from such a change, would prove very injurious both to the tenants and to the improvement of these estates generally. The factor informs me that sequestrations for securing the landlord's hypothec are emphatically rare on these estates, as occasion for sequestration very seldom arises. I do not think that payment of fore-rents would be at all an equivalent for the hypothec, because a tenant might only be able to pay fore-rent for a few years, so that the landlord would not have the same security as he has by his hypothec, which continues during the whole lease.

To Mr Carnegie.—I cannot say whether the tenants paying from £5 to £20 on the property I have mentioned have leases, but in the other cases I should say they have leases of the ordinary duration, according to the custom of the country.

To Mr Murray.—I believe they are not yearly tenants.

To the Chairman.—I am of opinion, that anything calculated to diminish the landlord's existing security for the payment of his rent must necessarily diminish the value of his property. Proprietors who purchased their estates did so on the faith of the existence of the law of hypothec. At present a proprietor is enabled to borrow money on mortgage at a moderate rate of interest, just because his rental is sound and secure. When he borrows on mortgage, he conveys his lands in security, and assigns the rents thereof to the lender, and the latter lends

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his money knowing that he has a right of hypothec. An heritable creditor can, by a poinding of the ground, or an action of maills and duties, attach the rents due by the tenants. Until lately such an action was of a very broad character, but it is still of such a kind as to give valuable security to the heritable creditor. This matter was fully considered before the last Bankrupt Act for Scotland was passed in 1856, and by the 118th section of that Act it is provided that 'no poinding of the ground which has not been carried into execution by sale of the effects sixty days before the date of sequestration, and no decree of maills and duties on which a charge has not been given sixty days before the said date, shall (except to the extent hereinafter provided) be available in any question with the trustee, provided that no creditor who holds a security over the heritable estate preferable to the right of the trustee, shall be prevented from executing a poinding of the ground, or obtaining a decree of maills and duties after the sequestration, but such poinding or decree shall, in competition with the trustee, be available only for the interest on the debt for the current half-yearly term, and for the arrears of interest for one year immediately before the commencement of such term.' Now, if the heritable creditor's right, so fixed, is to be available against the tenant 'for the interest on the debt for the current half-yearly term, and for the arrears of interest for one year immediately before the commencement of such term,' I do not see how this is to be maintained and continued if the law of hypothec is abolished. I do not think it would be right to alter or change the character of existing securities, on the faith of which persons have lent their money on mortgage. The late Bankrupt Statute of 1856 contains a section to the effect that 'nothing contained in this Act shall affect the landlord's right of hypothec.' A similar provision had been inserted in previous Bankrupt Acts. But the Act of 1856 underwent much consideration before it passed from the public bodies in Scotland, and in which the right of hypothec was fully recognised and admitted. In the year 1853 a Royal Commission was appointed, consisting of eminent lawyers in England, Ireland, and Scotland, to 'inquire and ascertain how far the mercantile laws in Great Britain and Ireland may be advantageously assimilated.' Under this Commission inquiries were made touching various matters, wherein the laws of these countries differed. The Commissioners sent down to various bodies for their consideration many matters and questions touching the laws of these countries, and among others the law of distress in England, and the law of hypothec in Scotland as regarded the rights of landlords and tenants. The following matters were submitted by these Commissioners to various public bodies for their opinion in the following words:—

'*England and Ireland.*	'*Scotland.*
'12. Landlord's right of distress attaches only after the rent has become due.'	'12. Landlord's right of hypothec affects the property of the tenant not only for rent which has become due, but for that which is accruing due.'

To these two matters the committee of the Faculty of Advocates in Scotland returned the following answer:—'The right of hypothec belongs in some respects more properly to the law of landed rights than to that of the sale of goods. In Article 12 of the Queries no reference is made to the distinction between the two kinds of hypothec which are known in the law of Scotland. The one being used for payment of rent past due, and attaching the crop of each year for the rent of the year, corresponds, it is believed, to the landlord's right of distress in England. The other, being used in security, attaches the crop and stocking of the tenant for security of current rent. It is believed that there is no right in the law of England corresponding to this. Your committee are not competent to judge whether or not it may be expedient to introduce such a right into England; but they are of opinion that, subject as it is to well-known restrictions in its use, it has worked well and beneficially to tenants in this country, and that it would be injurious to take it away. Much difference of opinion may probably be entertained as to another branch of the law of hypothec, viz. as to the extent to which it has been carried in allowing the landlord to follow, *de recenti*, grain not sold in bulk in public market, which has been delivered to and taken away by a purchaser, so as to compel second payment of the price, as was found in the case of the *Earl of Dalhousie* v. *Dunlop and Company*, 27th February 1828. But this inconvenience in the law of Scotland (if it be one) does not appear to

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your committee to be occasioned by the difference between the laws of the two countries, or rather it is not a matter in which the law of Scotland is ever likely to be brought practically into conflict with that of England, and consequently it does not seem to fall within the scope of the inquiry to which the attention of your committee has been directed.' The committee of the Society of Writers to the Signet returned the following answer:—'The right of hypothec here referred to belongs more to the law of land rights than the law merchant. In Scotland the landlord has not only a claim of hypothec over the crop for the rent which may be actually due, but for the rent then current. This committee are not aware whether there is any right similar to this in the law of England; but, if there is not, this committee do not imagine any practical inconvenience can arise from the difference of the law in the two countries. They do not think the law of Scotland should in this respect be altered.' The Society of Solicitors before the Supreme Courts answered:—'By the law of Scotland the landlord's right of hypothec in urban tenements must be made effectual within three months after the last conventional term of payment of the rent in each year, otherwise the hypothec is lost. The hypothec may be used during the currency of the year in security, provided there be circumstances in the condition of the tenant warranting the landlord to take such a step. This is attended with advantage, as it frequently prevents tenants in desperate circumstances removing and disposing of their furniture between terms. The hypothec over farm stock must be made available within the same period. The hypothec over the crop seems to stand on the principle, that it is the property of the landlord until the rent of the year of which it is the produce be paid, and may be made special so long as the crop remains on the lands. The point of difference here stated is not likely to create any practical inconvenience.' The Faculty of Procurators in Glasgow answered:—'Assuming that the landlord ought to have a preference, it is reasonable that it should attach for the rent of the current year before it is payable, otherwise it may be evaded. But we do not think that the landlord's hypothec should be available, unless made effectual within a short defined period (say two months) after the last portion of the year's rent is payable, and before removal of the effects, unless the removal is clandestine.' The Convention of Royal Burghs answered:—'The right to sequestrate for rent to become due only applies to by-gone rents and the rent of the current year, and a sale cannot take place till after the term at which the rent falls due. There seems no reason to alter this rule.' The Royal Commissioners took evidence about various other matters not relating to the law of hypothec, and two Acts were prepared, the one applicable to England, and the other applicable to Scotland. The Scotch Act was framed by the Professor of Scots Law, in conjunction with one of the Commissioners, an eminent Scotch Judge, and is intituled 'An Act to amend the laws of Scotland affecting trade and commerce.' That Act, which was passed in 1856, made several alterations or amendments of the law in regard to various other matters, but it contained the following clause:—'IV. Nothing hereinbefore contained shall prejudice or affect the landlord's right of hypothec and sequestration for rent.' I am not aware of anything which would lead these bodies to return now an answer different from what they returned then. Landlords have already entered into leases, and made the terms of the payment of the rents on the faith of the law of hypothec, and, if that law be now abolished, I think injustice would be done if it applied to existing or current leases. If the law of hypothec as regards agricultural farms should be abolished, it would also fall to be abolished in regard to urban tenements or dwelling-houses, shops, mills, and manufactories. These form a most important part of the rental of Scotland. According to the valuation rolls of 1863 of the properties in the cities of Glasgow and Edinburgh, I find that the yearly rental or annual value of these is as follows, viz.:—Glasgow is £1,668,191, and Edinburgh is £933,536; and, if there be added the rental or annual value of all the other towns in Scotland, it will at once be seen how important it is to consider whether the law of hypothec should be abolished as regards all these urban properties. It has been decided in the case of *Preston* v. *Gregor*, 26th June 1845, that the landlord's right of hypothec includes a right of retention. In that case it was held that, although a tenant was not *vergens ad inopiam*, the landlord, under his right of hypothec, was entitled to interdict the sale and removal of the growing crop from a farm, until the tenant found caution for the current year's rent. In that case there was no arrear of rent due by the tenant, and the Court

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decided the case chiefly on the ground that the landlord's right of hypothec included a right of retention. But further, in considering this matter there ought not to be overlooked other kindred rights of hypothec, lien, or retention. For example, the law recognises the superior's hypothec, maritime hypothecs, the law-agent's hypothec; and there is besides a large class of mercantile liens or rights of retention—such as the lien of merchants, to whose charge and keeping merchandise has been committed. There is also the banker's lien, the insurance-broker's lien, and various others. There are persons who inconsiderately say, that in their opinion all of these ought also to be abolished. But men of large experience in the mercantile and manufacturing community entertain a very different opinion. They know well the facilities which such liens afford for successfully carrying on business, both in the preparation of goods for the market, and for the advance of money in the way of accommodation. In England, where merchandise and manufactures are carried on upon a much larger scale than in Scotland, this matter has been the subject of frequent discussion; and the greatest jurists were in favour of such liens. It appears that Lord Hardwicke was distinguished as peculiarly favourable to them. And the late Lord Mansfield, when Lord Chief-Justice of England, declared, in regard to liens, that 'the convenience of commerce, and natural justice, are on their side.' The same remark applies with equal justice to agricultural hypothec. I doubt the expediency of advertising in the *Gazette* sequestrations under the law of hypothec. These are already sufficiently well known in the neighbourhood of the tenant whose crop and stock have been sequestrated, and any more extended publicity would only irretrievably injure the tenant without doing much good to any party. His debts are generally limited to his own locality, and an advertisement in the *Gazette* would infallibly prove utter ruin to him, and prevent his recovery from merely temporary embarrassment. Besides I see a difficulty in limiting such an advertisement; for if it takes place, it must be applied to all cases of hypothec, both rural and urban, whether rents are large or small. Such advertisements might become numerous, and would prove as injurious to poor tenants as the publication of advertisements under the Bankrupt Act. My experience of that Act is, that it is in general much more for the advantage of creditors to make a private arrangement with the debtor than to drive him to the *Gazette*, and incur the heavy expense of an official administration.

To Sir W. Gibson Craig.—The publication in the *Gazette* would be of no consequence to the landlord further than this, that a man of good feeling would not desire to crush his tenant. We all know that tenants have been sequestrated for their rent, and have gathered their feet by a little aid from their friends or the landlord. I think the publication would be crushing a tenant without doing any good.

To the Chairman.—*Q.* If the great majority of tenants tell us that they would have no objection to the publication in the *Gazette*, would that affect your opinion?—*A.* Yes, as far as these tenants are concerned.

To the Lord Provost.—There would be some advantages in the publication, but I think the disadvantages preponderate.

To Mr Curror.—I should think the cases very rare in which a landlord carries on a bankrupt tenant at no risk to himself, the public being the sole sufferers in the end. I have not met with such cases.

To Mr Carnegie.—*Q.* Have you known many cases, in which an heir succeeding to an estate has found himself in a very difficult position from not getting any rent for a long time?—*A.* I have not known any case where a proprietor found himself in a difficult position, though I have certainly heard some of them grumble at being so long in getting their rents. *Q.* Have you ever known them have to live two years on borrowed money?—*A.* It is no doubt an inconvenience not to get the rents the first year after a proprietor succeeds; but that is a question between the heir and the executors. It may be for the daughters of the deceased proprietor, and I would never grudge the daughters getting a year or two's rent under such circumstances. When a landlord gives indulgence to a tenant, it may be beneficial to both. If the tenant is enabled to sell his stock or crop to greater advantage on account of the indulgence, both gain by it. If it is not sold to advantage, both landlord and tenant, especially the tenant, suffer. No doubt the indulgence is given at the risk of the tenant's other creditors; but I scarcely ever met with a case in which the tenant was sequestrated where the landlord did not get back his farm in a deteriorated condition.

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I recollect only one case in which a landlord got back his farm in a somewhat improved condition, and let it again at an increased rent. That was the case of a small tenant, and I don't think the increased rent arose so much from the improvements made on the farm, as from the general rise of rents in the country at the time. The abolition of the law of hypothec would restrict the landlord in the choice of his tenants. He could still let his land to whomsoever he liked; but if the competition were limited to the class of rich tenants, the landlord would not get the same rent that he would get, if there were more competitors. At present he can take a man of limited means, if he has the requisite amount of skill and experience, rather than a rich tenant with neither skill nor experience. Of course he might do that if the law were abolished, but he would not have nearly so many offers for his farms.

To Mr Hope.—*Q.* You think a law should exist for the benefit of certain classes as against another class?—*A.* The very reverse. I wish it to apply to all, and not to limit the market to a particular class.

To Mr M'Lagan.—*Q.* Would you advise any of your clients, suppose the law were abolished, to be content with fore-rent as a security?—*A.* Certainly not.

To Mr Carnegie.—So far as my experience goes, sequestration is not common among the smaller tenants; but the law is not on that account inoperative, because its existence is known, and it serves as a spur to the tenant to exert himself, knowing that his stock and crop will be sequestrated if he does not pay. The small number of sequestrations in my opinion proves that the landlords have not been in the practice of over-renting their farms.

To Sir W. Gibson Craig.—There are, I believe, fewer cases of sequestration of tenants than of the trading community. I think tenants entering on farms have means quite equal to shopkeepers entering upon business; and where a shopkeeper fails, general creditors lose as much, and I believe in some instances more than they lose by the failure of a tenant.

To Mr Carnegie.—I cannot speak confidently, but my impression is that rents have been increasing in the north of Scotland, as farms have come out of lease. When the late Duke of Richmond succeeded to his estates, my late partner, Sir J. Gibson Craig, advised him to get quit of the system of meliorations, and I believe a large sum was spent in buying them up. I have no doubt that the rental has very much increased, though I have not the exact figures. My experience, speaking generally, is, that both in large and small farms the increase of rents has been gradual, and in many cases very considerable. For instance, take the case of Spylaw, let the other day. The last tenant, a well-known man and a very eminent agriculturist, who had it for two leases, paid about £1000 a year of rent; the present tenant, I understand, outbid him, and I am told the rent now is £1700. It is not usual for neighbouring tenants to outbid one another.

To Mr Curror.—I know no particular reason for the rise. It could not have been owing entirely to expenditure on drainage.

To Mr Carnegie.—I don't think a farmer could have had a good bargain of a farm, if he had not made one year's rent out of it on a nineteen years' lease; but he might have spent his profits in educating his family and bringing them up in the world. I have known farmers who held as cheap farms as are to be found in Scotland, who were as poor at the end of their lease as at the beginning of it. I don't say that these are desirable tenants; but industrious farmers, who have educated their families, and saved a year's rent at the end of their leases, are not worse off than many other classes of the community. *Q.* If a tenant has saved a year's rent, is there any reason why he should not be able to pay a fore-rent on taking a new lease?—*A.* I should think a tenant starting on a farm with one year's rent would be rather close work. Even if he were able to do it, I hold it would be no equivalent for the security of the hypothec. *Q.* You stated that the proprietors bought their land under the law of hypothec; does not the same observation apply to every change made on the law as to rates and taxation?—*A.* I don't think so. A landed proprietor acquires right to his estate knowing that he has secured to him by law a hypothec for his rents, and, if that well-known right is taken away, I think it is calculated to diminish the value of his property. I can only say that, if a client were applying to me to advise him with reference to the purchase of an estate, the law of hypothec being abolished, I should not consider the estate of the same value as I would do with the law in existence. The Royal Commission of 1856 was chiefly with reference to the mercantile law of the two countries; but they thought the question of

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hypothec of sufficient importance to inquire as to it, and to insert a clause in the proposed Act specially reserving the landlord's right of hypothec. I should not be in favour of limiting the preference of the landlord to one year's rent. The hypothec as regards stock and the hypothec as regards grain stand on a different footing. The hypothec as regards stock must be exercised within three months, and I hold that restriction to be a valuable restriction as regards the public or creditors. As to the crop it has been said, that it need not be sequestrated within three months, but that if it exists it may be sequestrated at any time; but you can only sequestrate a crop for the rent of the year in which the crop is produced. Now I see no objection to putting stock and crop on the same footing, and making both liable to sequestration within three months. More has been said of that grievance than it deserves, because a tenant who is able to keep his crop for eighteen months or two years is generally in such a position as to be very indifferent about the law of hypothec. I am aware that the law virtually allows the landlord a preferential claim for two years' rent, but I don't recollect ever meeting with a sequestration in which the tenant was in arrear for two full years' rent. He has generally paid up a considerable portion of the rent of the first year. I should object to the proposal to limit the landlord's preference to one year's rent.

To Mr Hope.—I understand that the landlord's right of distress in England applies to only one year's rent; but I speak with great hesitation as to the law of a country with which I am not acquainted.

To the Chairman.—I am aware that the existence of leases for nineteen years is not common in England.

To Mr Hope.—I should say that land must bring a higher rent let on lease than let from year to year. A lease for nineteen years enables a tenant to lay out large sums in improving the land, which he would not do if he had it for only twelve months. I admit that is a sufficient reason for landlords giving leases, even though there was no law of hypothec. The law is substantially the same as to land and houses. *Q.* Do you know any case where the rent of houses is postponed for eighteen months?—*A.* Certainly not. The rents of houses are payable generally half-yearly. *Q.* Why should not land be in the same position?—*A.* In agricultural leases I think it is more convenient to the tenant to be back-rented than to pay fore-rent. *Q.* Is not the effect of the back-rent to give the landlord an increased rent?—*A.* I have never advised the landlord to look to the law of hypothec as a mode of increasing his rent. I don't think the landlord looks to it in any other light, than as a security for the payment of rent. To a certain extent, no doubt, the law increases competition for farms in some cases. *Q.* Does it not compel a man of capital to increase his offer for a farm, in order to meet the offers of men of smaller means?—*A.* In some cases it may be so, but not in others. I mentioned already the case of Spylaw, where one rich man outbid another rich man, and there I think the law of hypothec had no effect at all. The law is chiefly valuable to small tenants, because it affords them the means of carrying on their farms without much capital, owing to the back-rents. If a tenant lays out large sums on artificial manures, he will have the benefit of that in the larger return from the land. Except manure merchants, I am not aware that farmers have any class of creditors different from what they had fifty or a hundred years ago. I don't think fore-rents would be as good to the landlord as the security of the law of hypothec, because the tenant might stop paying his rent in two or three years; and, although the land is still there, in nineteen cases out of twenty, where sequestrations have taken place, it is returned to the landlord in a deteriorated condition. *Q.* You have stated that you have had very few sequestrations on the lands under your management; what effect has the law in enabling landlords to recover their rents, when they don't require to put it in force?—*A.* It is known to exist, and that stimulates tenants to use exertions for the payment of their rents, which they would not otherwise use. *Q.* How do you account for these men paying their other debts,—to the manure merchant for example?—*A.* In the same way that a man who signs a bill payable to another knows he is bound to pay it when it falls due. *Q.* Is not a tenant bound to pay his rent when it becomes due?—*A.* Yes, and if he does not pay it the law of hypothec may be put in force. *Q.* If it were abolished, is there no other means by which a landlord could compel payment of his rent?—*A.* Undoubtedly; he could do so by personal diligence, but, if you abolish the law, you put him in the same category with other creditors. *Q.* What is there in

the law of hypothec, that would make a man strive to pay his rent more than any other diligence that might be used against him?—*A.* The law affords equal facilities for both. By a late statute it is declared that, if you apply for sequestration against a tenant, it is competent not merely to sequestrate the crop and stocking, but to insert in the petition a conclusion for payment of the rent, if there be no lease, and under such an application you might take decree for your rent, and proceed to enforce it without resorting to the law of sequestration at all; but in doing that your three months might expire, and then you would lose your right of hypothec. In the same way, if you have a regular lease with a clause of registration, you can charge a tenant under the registered lease at once, and use all manner of diligence and execution against him. You are entitled to do that, and sequestrate besides; but if you resort to the diligence, and forget your right of hypothec, you lose your preference altogether. I see no reason for depriving the landlord of the right of hypothec, which the experience of centuries has shown to be beneficial to this country—both to landlords and tenants—and which is founded on expediency as well as justice. It is not the fact that there have been a great many changes, arising from sequestrations and otherwise, on a large estate in Forfarshire of which we have the management. It has been stated that nine tenants in the immediate neighbourhood of Brechin have become bankrupt within the last two years, but the noble lord referred to was proprietor of only two of these farms. The failures were considerable, but they are explained as follows:—Four of them were largely united in cautionary obligations, and they were all hanging together, so that when one failed they all came down. The banks held three-fourths of their debts. In some of the cases the banks had to lend on the names of shopkeepers and others who drew the bills, but this was to a limited extent. One tenant was due £50 for a saddlery account, £40 to his country blacksmith for ploughs, and £20 to a country wright for carts. Few poor people felt these failures much; friends and relations lost largely. The cross rankings by the banks tended much to keep down the dividends on all the estates. One cash-credit, for instance, would be ranked for the full amount on as many as four estates; and, as the dividends averaged 4s. on each, the banks got well out. The same thing happened as to the accommodation bills. When one man on a bill went to the wall, it became almost an object to the banks to get the whole batch down, that the bill might be ranked for the full amount on the other estates, before any dividends were received to account of it from the first who failed. That accounts for the small dividends that many of them paid. Of these nine tenants, only two were on Lord Dalhousie's property. All the landlords got payment of their rents, with one exception. I have this explanation from an undoubted source. As to a case which was referred to in the parish of Monikie, the tenant I am told failed for a considerable sum. The landlord, it is said, will lose a half-year's rent, and the farm is probably deteriorated.

To the Chairman.—I do not know anything about the farm being afterwards let to a person who commenced farming with only £7. I know no man more particular than Lord Dalhousie in inquiring into the circumstances of a tenant before he lets a farm; and I do not believe he would knowingly let his farms for an over-rent, or to any man without sufficient means. It does not consist with my knowledge, that large arrears have been wiped out on Lord Dalhousie's estate since the present lord succeeded; but I think it due to his lordship to say, that I know no landlord who shows more anxiety in the proper selection of his tenants, or who shows less of a grasping disposition, or less of a desire to increase unduly his rents, than Lord Dalhousie. I do not believe that the class of blacksmiths, carpenters, etc., meet with larger losses through tenants than through other classes of the community. I don't think it would be possible to give that class a preference, without also giving a preference to the manure and seed merchants and others. I don't think tradesmen have any claim in equity for a preference on tenants' estates, more than on the estates of any other classes of debtors.

To Mr M'Lagan.—I am not in favour of limiting the landlord's hypothec to each half-year's rent. I think that would be injurious both to landlords and tenants.

To Sir W. Gibson Craig.—Fore-renting would be necessary, if the law were abolished; but that would not be a sufficient security to the landlord. If the law were abolished, I could not recommend a landed proprietor to let his farm to a

George Dalziel.

tenant, without very ample information in regard to the tenant's circumstances; and, when these were doubtful, I would require the tenant to find security for the payment of a certain number of years' rents. The consequence of that would be, that the tenants who were obliged to find security in that way would be asked to become security for others, and a system of mutual cautionary obligations would result. I think tenants would find it difficult to get their friends to become cautioners for them for nineteen years, but, where they succeeded, the favour would be asked of them in return. I see no way in which the landlord could secure himself, except by a sufficient guarantee for a certain number of years, or by the law of hypothec. The law of hypothec I hold to be preferable, because it lasts for nineteen years. I think the system of mutual cautionary obligations would be most ruinous to tenants.

To Mr M'Lagan.—I think the law of hypothec is the most convenient way of giving security to the landlord.

To Sir W. Gibson Craig.—It is virtually a cautionary obligation of a most effectual kind, obtained at little expense; and it is more for the benefit of tenant and landlord, than any other obligation I can think of.

To Mr Curror.—*Q.* Don't you think the law has tended to keep up the price of land?—*A.* Anything that renders rental more secure of course makes an estate more valuable, and therefore the law as it stands is a valuable right as regards landed proprietors; but the extent to which it is more valuable in one case than another I cannot say.

(77.) ALEXANDER FORBES IRVINE, Esq.

Alexander Forbes Irvine.

To the Chairman.—I am proprietor of the estate of Drum in Aberdeenshire, and convener of the county of Aberdeen. I am also a member of the Scotch bar. I have been several times a director of the Highland and Agricultural Society, and I have specially acted for a number of years as chairman of that Society's Standing Committee on Publications. I have had opportunities of directing my attention to the agricultural interests of the country generally, and specially to the operation of the law of hypothec. My estate is about 8000 acres in extent, and I have 147 tenants. A considerable number of these are small tenants. I think there are forty under £10. My largest farm is about 300 acres. The highest rent is about £2 an acre, and the average of the cultivated land is about 18s. or 19s. per acre. I succeeded to the estate in November 1861, but for some years before that I had practically the management of the estate. Of the tenants in Aberdeenshire, a large proportion have risen by their own energy and perseverance from small beginnings. They commence very often as farm-overseers, and even as farm-labourers, and in many cases they have prospered. They have educated their families, and put their sons out into small farms. Many of them have not much capital, in the sense of money; but they have intelligence and industry, and skill and steadiness. They are a very suitable class of tenants for the kind of farms which principally exist in Aberdeenshire, and they are especially suited for improving and taking in uncultivated land. Industrious hard-working men of that class are undoubtedly superior for these farms to men of larger money capital, who do not possess these qualifications. No doubt capital would be an advantage; but these men, though without capital in money, possessing the qualities which they do, are the most suitable class for the cultivation of these farms. They are better than men of larger capital and skill, who have not the same laborious habits; and their acquaintance with the soil and climate, which they have to deal with, is also a great advantage. I do not think that strangers, even with more capital, would do so well as the present men do. My estate is a fair average specimen of the kind of estates in Aberdeenshire generally, except that I have perhaps rather more than the usual proportion of very small farms. Industrious tenants of this class are very much helped by their families. I have known some farming a considerable extent of land, who worked it entirely by their own families. They do not get much pecuniary assistance from their friends. On the whole the existence of the law of hypothec has been decidedly advantageous to that class of tenants. It allows the landlord to give them a certain amount of indulgence, so that they can commence with less capital. If the law were abolished, I believe it would be impossible for the landlord to give that indulgence; he would require forehand rent, and in many cases I think prepayment would be necessary.

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I have heard the capital which is required for Aberdeenshire farms estimated at from £8 to £10 an imperial acre. While that class of tenants have on the whole been prosperous, there is no doubt that they have greatly improved the county of Aberdeen agriculturally, and that improvement is still going on. If the law of hypothec were abolished, I think many of these tenants would be turned out altogether.

To Mr Carnegie.—I mean that that would happen to a considerable extent at the end of existing leases.

To the Chairman.—They would have either to become farm-servants, or take to other occupations in the towns, or to emigrate. The present law enables the landlord to be more indulgent and less strict with the tenant, than he could otherwise be, all through the lease. In my opinion the law is more beneficial to the tenant than to the landlord. It is not an unmixed advantage to the landlord, because the system of back-rents is very frequently inconvenient in practice. Practically he gives eighteen months' credit, and his own obligations are due in a much shorter time. A proprietor succeeding to an estate has to pay provisions, etc., in six months, while he does not get his rent perhaps for eighteen months. It is therefore more in the interest of the tenants than of the landlords that I advocate the continuance of the law. I don't think its abolition would have any very marked effect on the amount of rents throughout Scotland. I do not agree with those who think that the existence of the law has unduly raised rents. Of course it is impossible to speak positively as to the effect of a thing which is prospective, but that is my opinion. I think the high rents which have been got in some of the richer parts of the country, and generally, may be attributed to the fact of there having been several successive favourable seasons, and the high price of potatoes may have had some effect in the neighbourhood of large towns. Socially I think the present law works well, because it leads that class of tenants to marry and settle earlier in life. I regard it as beneficial to the country that there should be a gradation of the class of tenants, and that from small beginnings they should have an opportunity of rising in their profession. Sequestrations for rent are very infrequent in Aberdeenshire, and sales following on them still more so. The general creditors of tenants have not suffered to any considerable extent in my experience from the operation of the law. I think it would be an advantage if sequestrations were published. This would put those who are in the habit of dealing with tenants more on their guard, though it might be felt as a hardship by the tenants themselves, because it would impair their credit to a greater extent than is at present the case. I am of opinion, however, that the advantages of publication would counterbalance the disadvantages. Sequestration is very unwillingly resorted to by landlords, even on selfish grounds, for it is a very expensive and wasteful process. The goods of a tenant, when brought to sale, very seldom realize anything like their value, and the land is invariably given back in a very reduced condition. I do not believe that the creditors of insolvent farmers have suffered more than the creditors of tradesmen have done, in proportion to their numbers. I should say it is the other way. Of course I mean if a tenant confines himself to his own profession; if he becomes a speculator, that takes him out of the rule. I have asked several bankers whether the existence of the law makes it more difficult for farmers to obtain credit from banks, and the answer has been that it had no effect in that respect, but rather the other way. Among others, I put the question to Mr Brand of the Union Bank, and he was clearly of opinion that it had no such effect against farmers.

To Mr M'Lagan.—They look to the cautioners.

To the Chairman.—In the course of my experience I have never even heard of a case of corn sold by a tenant being reclaimed, or of double payment of the price being asked from a *bonâ fide* purchaser, excepting the few cases which have come before the Court, viz. those of the Earl of Dalhousie in 1831, and of Barns last year, besides an earlier case of Smart in 1796. My belief is, that it is the very rarity of such cases which has made those that have occurred be so much talked of. I don't think that practically that part of the law has been a great inconvenience, but there is so much feeling against it, that I would willingly see it modified, if the landlord's interest could be sufficiently protected without it. I think a notice to the landlord of the intended sale, putting it on him to interdict it within a certain time, might obviate the inconvenience. A provision of that sort was introduced in a Bill by Mr Gillon in 1832. There might be some difficulty

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in allowing a sale by sample in a market, after delivery and payment of price, to have the same privilege as a sale in bulk has. That might do away too much with the landlord's security, even where fraud is not alleged. I do not see that there is any foundation for the grievance stated by the manure dealers; they have the remedy in their own hands, either to deal for cash or to put on an extra price by way of insurance for bad debts. I suppose they do charge an extra price to cover losses, and landlords have to pay that as well as tenants. The losses of manure dealers are often attributable to their own imprudence, and to undue competition, and often they press sales and give too liberal credit. I do not think it is an advantage to tenants to get undue credit in that way. There is certainly a distinction to be drawn between a landlord who makes over the use of his land for nineteen years, and a manure dealer who deals from day to day. A manure merchant may insist on immediate payment, and the transaction is finished. A landlord entrusts a valuable piece of property to another man for nineteen years, and is entitled to some security for the punctual payment of his rent. If a man lends money, he is very seldom content with personal security; he demands heritable security. I do not think there is any difference in point of principle between that case and the case of a man lending his land. The loss to the other dealers with the borrowers would be exactly the same, because the personal creditors would all suffer by the preference given to the heritable creditor. In the one case it may be discovered from the register what real burdens the land is under; while, in the case of the hypothec, the landlord's preference is known to all the world, because it operates through the law itself. If the hypothec were abolished, the landlord would have to resort either to prepayment of rent or to some system of caution. A system of caution would be very objectionable, as it would involve men in very uncertain obligations, depending not on their own solvency, but on the solvency and conduct and character of other people. It would lead to a mutual system of cautionary obligation; and, if anything went wrong, all would go together. I think it would be impossible for landlords to get continuous cautionery over a great number of years. Very few people would like to be cautioners for nineteen years. I have known the evils of tenants becoming cautioners for each other for bank credits, and I think these evils would be aggravated by any system requiring the exaction of caution by the landlord. My opinion generally is, that any material alteration of the law of hypothec would be very hurtful both to landlord and tenant.

To Mr Carnegie.—The system of back-rents is sometimes very inconvenient for an entailed proprietor. On succeeding, he finds he must pay his obligations within six months, while he does not get his rent for eighteen months. I have no practical experience of how the system of paying the rent three times a year works on Sir Alexander Bannerman's estates in Aberdeenshire. The class of tenants to whom I referred get very little pecuniary assistance from their friends. I cannot see that the law of hypothec has anything to do with that. These tenants are generally thriving, and, at the end of a lease, they are able either to pay an increased rent or to take larger farms. I know a good many who have risen from small beginnings. I should think they ought to have saved a year's rent on a nineteen years' lease, but that would depend on circumstances, such as the expense of bringing up a family and setting them out in the world. *Q.* In that case is there anything to prevent them from paying forehand rent at the expiry of the lease?—*A.* No. They would be able to take a farm of the same size and pay fore-rent; but, with the present law, they would be able to take a still better farm. *Q.* But a change in the law would not make it necessary that those who are well-doing should be put out of their farms?—*A.* No. A man who had made a year's rent of profit would be able to meet a change in the law at the end of his lease. As to the amount of rents, I think, if the law were abolished, the rents might be less by the amount of the interest on a postponed payment for eighteen months. I have not considered the question of the length of notice which should be given to landlords before an intended sale of grain. In one of the Bills on the subject it was fourteen days. In the case of non-resident landlords, notice to their factors or land-stewards should be sufficient. The proposal to limit the landlord's preference to one year's rent, would, I think, be objectionable, because it would limit the indulgence he can give to the tenants.

To Mr Hope.—Many of the farmers in Aberdeenshire have been farm-overseers. Some have failed, and been reduced to labourers; but these cases have not been frequent. They have taken in a great deal of land which had formerly

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been uncultivated. In this they have been assisted largely by the landlords in various ways. The extent and kind of assistance have been matter of agreement. If the law were abolished, the landlords could not trust even well-doing tenants to the same extent. The amount of the trust which they would have in them would depend on the particular cases. I don't think rents would fall to any material extent if the law were abolished. In my opinion it would be difficult to get men to take the very small farms, if the present men were driven out. In that case these small farms might go out of cultivation. *Q.* Don't you think that, if the law were abolished, the landlords would trust these men with back-rents as at present, when sequestrations are so few, rather than allow the land to get out of cultivation?—*A.* Yes; I think they would. I presume manure merchants charge prices for their manure which cover all their losses. A landlord, giving away his land for nineteen years is running the risk for which he is entitled to more than personal security. A tenant who expends £8 per acre on his farm has the security of his lease and of his expected profit.

To Mr Curror.—I don't think the small tenants are increasing in Aberdeenshire. On the whole I would say they are diminishing, because, as the land is improved, it is thrown into larger holdings. *Q.* Would it not be a sufficient security to the landlord, if he got a tenant of capital and skill to lay out £8 an acre on his land? *A.* Yes, if he lays it out; but there is no security that he will do so, and he may speculate and lose his money.

To Mr M'Lagan.—I do not think that the better class of tenants would have brought the waste land in Aberdeenshire into cultivation. It required the class of men who worked at it with their own hands. My opinion is, that a good deal of the land would not be occupied by tenants of capital, and that therefore small tenants are necessary. There are tenants in Aberdeenshire who are employed by the larger farmers, and who, in off-hours or on broken days, cultivate their own crofts, and in that way a good deal of land is brought in which might not be worked by large farmers. The best class of farm-servants are got from that class of tenants. I would not be inclined to shorten the period during which the landlord may sequestrate for his rent, because it would operate injuriously to tenants. If rents were prepaid, I don't think the landlord could expect any other security; but if they were what is popularly known as forehand, I think he might insist on caution. The present law is the most convenient way in which the tenant can give security to his landlord for nineteen years.

To Mr Murray.—My opinion is, that many of the smaller tenantry in Aberdeenshire could not pay a year's rent in advance, and that, if that were insisted on, some of them would have to leave their farms, and take to other occupations or emigrate. It is difficult to say whether the small farms would be thrown into larger ones, but the general result would, in my opinion, be disastrous to the present class of small tenants.

To the Chairman.—I have conversed and corresponded on the subject with many proprietors and tenants in my neighbourhood, and my impression is, that the views I have stated are generally speaking those entertained in Aberdeenshire.

(78.) Mr MATTHEW BUIST.

Matthew Buist.

To the Chairman.—I am factor to the Earl of Haddington in East Lothian, and also for his lordship's Lennell estate in Berwickshire. I have held that position for twenty-five years. I am well acquainted with the tenantry of East Lothian, and of that part of Berwickshire in which Lord Haddington's estate is situated. The term of entry to his lordship's farms in East Lothian is generally Whitsunday, except one or two recent purchases, as to which the term of entry is Martinmas. The rent is payable at Martinmas after reaping; but we collect it in East Lothian at Whitsunday and Lammas, and in Berwick at Candlemas and Whitsunday. There are fourteen or fifteen tenants on the estate in East Lothian, and they are all considerable farms. In Berwickshire there are six tenants I think, and three or four of the farms are considerable ones. The rental of the two estates is from £15,000 to £18,000. I approve of the present law of hypothec. I think a tenant cannot be expected to pay his rent till he grows his crop. If the law were abolished, there must be fore-rents or some other security, and that would be a great blow to the tenantry. I think the progress which agriculture has made in Scotland of late years is owing to the

Matthew Buist.

indulgence which landlords have been able to give their tenants. I do not agree with those who say that the class of tenants in East Lothian is deteriorating, in respect of skill and intelligence and capital. The tenants of East Lothian and Berwick are as good as ever they were. I have had occasion to hear the opinions of the tenantry on the subject of the law of hypothec, and I think the majority, even in East Lothian, are in favour of the law as it exists. The majority of those that I have come in contact with are so. It would be a great blow to the tenants to abolish the law and exact forehand rents. I do not think that, in selecting their tenants, landlords ever take the law of hypothec into consideration, nor do I think that the law has created an undue competition for land by bringing in parties who ought not to offer for it. There is great competition for favourite farms in East Lothian when they come out of lease, and that competition is among men of skill and capital. I have acted as adviser to Lord Haddington in regard to offers for his farms. I never recommended the acceptance of the highest offer, if there is a better man offering less. Some farms, in my experience, have been let to men of other professions, and some of these men have proved successful farmers, and are in their farms still. I have been between twenty-five and twenty-six years factor for Lord Haddington, and I have just had two sequestrations on the whole estates—one a small thing in East Lothian, and the other in Berwick. In the last case the man asked us to sequestrate him. I do not think they have been numerous on other estates—not so numerous as they were in 1827 and 1828. These were owing to bad crops. I did not hear any outcry against the law of hypothec in these years. I think the present outcry is got up by the extensive manure and other merchants.

To Mr Hope.—There have been great improvements in farming in my time. The expenditure on manures and feeding-stuffs is three times what it used to be. Much larger capital is now required than formerly; and, but for the increased expenditure on manures, I dare say it would be difficult to pay present rents.

To the Chairman.—I see no reason to alter my opinion as to the law of hypothec because more capital is required by farmers. That law has the effect of increasing the tenant's capital; and the more capital that is required, the more beneficial is the law to the tenant. I think that the sale of grain by sample ought to be protected in the same way as a sale in bulk, and it should be registered in the books of the clerk of the market. There would be no difficulty in providing that there should be such a register kept. I would not give the same privilege to a private sale in the stackyard, even if it were followed by delivery and payment. It would be impossible for the landlord to protect himself if that were allowed. I do not think any other modification of the law is required.

To Mr Murray.—I would still allow stock to be sold privately, without being followed, if it was paid for.

To the Chairman.—I would not extend the same principle to crop. If the law were abolished, I should recommend forehand rents, and I think that would ruin the greater number of the present tenantry. I should advise my constituent to take the best security going. I think it would be necessary to take a cautionary obligation as well as fore-rent. The abolition of the law would, in my view, restrict the number of offerers for farms. Many of the present tenants would not be able to go on with farms of the same extent; the large farms would require to be in the hands of men of capital. I think rents would probably be reduced, to begin with. Small tradesmen lose very small sums by farmers—probably their half-year's work on the farm; but they work to a large number of farmers, so that the hardship is not so great. It is the custom in East Lothian for the farmers to contract with these tradesmen; and I have known cases where they paid the smith monthly. I have known these small tradesmen get their accounts in a bankruptcy, by consent of the other creditors. I do not see any objection to give those working by contract a preference, similar to that given to farm-servants, for half a year. Their case is different from that of manure merchants, because they are resident among the farmers, and can only deal with them; whereas manure merchants have a much larger field for their dealings, and can cease dealing with any particular person when they please.

To Mr Hope.—It would be only for contract-work that I would give the preference; and I would only give it to the joiner and the blacksmith.

To Mr Curror.—The one sequestration we had in East Lothian took place six or seven years ago. Lately there was a case where the tenant called a meeting of his creditors, and I was appointed trustee. He had been in posses-

sion of the farm for seven years. He had some capital of his own, and also some belonging to some of his friends, which he had lost. Matthew Buist.

To Mr Hope.—I knew that a part of his capital was borrowed, but the person, to whom I was referred for his character, offered to give me security for the whole years of the lease. He was not the highest offerer. The farm was better when he left it than when he went to it. It is let again at a rent a trifle lower. The rent was partly in grain and partly in money before, but it is entirely a money rent now. I cannot say yet if the landlord has lost anything. I have not heard of any applications for reduction of rent in any part of East Lothian. I heard that one man had got a reduction, but I never could ascertain that it was true. I know a great many cases where tenants have improved their farms in East Lothian. I have been occasionally employed as a land-valuator in the county. I generally value the farms at what I would give for them myself. I disagree entirely with the statement that two-thirds of the land in East Lothian is badly farmed.

To Mr Murray.—I think a very large majority of the tenantry in East Lothian are opposed to any change in the law. I know a few who wish a change. I don't know what their object is.

To Mr Curror.—I don't think the law has a tendency to keep rents higher than they would otherwise be.

To Mr Hope.—Rents would fall if the farms were fore-rented. *Q.* If the law were abolished, would you, as a practical man, recommend Lord Haddington to take a reduction of 10 or 15 per cent. on the rents, rather than go on under the present system of back-rents, when you don't lose one-half per cent.?—*A.* I would advise him to have the best security he could get, if the law were abolished.

To Mr Curror.—The most searching inquiry is always made into the character of offerers for farms. I cannot say that I ever saw outsiders bidding more than others.

To Mr Hope.—We don't always take the highest offerers. I don't consider that rent is the main thing.

To Mr Carnegie.—In letting farms we do not take the law of hypothec into consideration, in the way of saying that we will give the farm to a man who wants capital, because of the law. I never heard it mentioned in any of our transactions. I do not know any instances, in my neighbourhood, of landlords taking men of insufficient capital who offered high rents.

Monday, February 27, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

RIGHT HON. SIR W. GIBSON CRAIG.
HON. MR CARNEGIE.
MR MURRAY.
MR FLEMING.
MR HOPE.
MR M'LAGAN.
MR CURROR.

(79.) MR JAMES MURRAY.

To the Chairman.—I am a farmer at East-Barns, near Dunbar. I have been engaged in agriculture for forty years and upwards, originally in Berwickshire and afterwards in East Lothian. My present farm consists, in round numbers, of 500 acres imperial, and my rent is £2400. I have entered on my second lease in East-Barns. It is a Martinmas entry, with the first rent payable at Candlemas twelvemonth, and the second at Whitsunday following. I have found no inconvenience, direct or indirect, from the law of hypothec. I do not think it has had any effect in creating an undue competition for land, or in making rents higher. Within the last twelve months there has James Murray.

James Murray.

been a dulness, but previously to that the rents had certainly risen. I do not think, however, that that rise is attributable to the law of hypothec. I do not think it has any tendency to make landlords careless in the selection of tenants. I don't think landlords look to the security of sequestration. There may be some minor changes which it might be well to make, such as preventing grain being followed where a *bonâ fide* sale has been made. I would certainly require the sale to be perfected by delivery and payment of the price, in order to protect the transaction. If it be a collusive sale, then I think the parties should be criminally prosecuted. I would give sale by sample the same privilege as sale by bulk. I think the rule of the district should be legalized, so that where sale by sample, or sale by bulk, or private sale is the rule, that form of sale should be protected. I should think a stackyard sale very suspicious; but I would protect a sale of grain which had been threshed and dressed, and was ready for delivery. I would not hold a mere stackyard sale a *bonâ fide* one; but, in the case of potatoes, it is the same as dressed grain ready to be delivered. I consider potatoes lying in the pit are as ready for delivery as grain in the barn. I have only once sold potatoes in the field, and I do not think it is a good practice. I think the present law promotes a kindly feeling between landlord and tenant. I think the abolition of the law would injuriously affect that kindly feeling, even in a district like East Lothian, where they have large farms; and I should think that would be still more the case in a district where the farms are small, and indulgence may be more frequently required.

By Mr Curror.—I think if the law were abolished the landlord would require to look more sharply after his tenants, and that feeling would make the tenant sharper with the landlord. With the law of hypothec he does not trouble the tenant, and the tenant does not trouble him. I do not think it would much affect the giving of indulgence to the tenant. I am not in favour of the landlord giving the tenant much indulgence; but I think the law of hypothec gives a security to the tenant which creates a kindly feeling, though there may be no indulgence asked or granted, or necessary.

To the Chairman.—I should not like to give any opinion as to what may be the opinion of others on this question. I do not think agricultural sequestrations have been numerous of late years in East Lothian. I should think they must have been few when I was in Berwickshire, as I have no recollection of them. In the district of Berwickshire I was in, the landlord was as anxious as any one to get a high rental; but both he and his factor took good care to secure men who could pay their rents. I don't think they regarded character very much, but they were always looking out for skill and capital. On the stock-farms there they entered at Whitsunday and paid at Martinmas. On the arable farms the entry was at Whitsunday, and they did not pay for a year and a half—till they had reaped the first crop, the corn-crop after entry going to the outgoing tenant. The incoming tenant gets three-fifths of the land—two-fifths in grass and one-fifth in turnips; but with regard to the arable part I do not think the payment is so far behind as on the stock-farms payable at first Martinmas, for this reason, —that on an arable farm there is a constant expenditure of money, and the tenant has only sold a part of his crop by Martinmas twelvemonth; whereas the stock-farmer has by the middle or end of September realized his whole stock sales for that year, and he is as well, if not better, able to pay his whole year's rent at first Martinmas, as the arable farmer is to pay his first half-year at the second Martinmas. It is the general practice in East Lothian to contract with the smith; it is not so much the case with the joiner. But there are always odds and ends which the smith charges over and above. I think it would be well to give some preference to the debts of the smith and joiner. They are paid every half-year; but, if they were overdue a month beyond the half-year, I would not give them any preference. There would of course be some difficulty in giving a preference to the smith which you did not give to the millwright. Except as to the power of following, I would leave well alone, and let the law of hypothec stand as it is. I think it would be right to make sequestrations public.

To Mr M'Lagan.—I have not sustained any loss by farmers, although I have lost by other people. I think it would be very reasonable that the hypothec should be available every six months instead of every year.

To the Chairman.—I do not think the land would be cheaper by the abolition of the law and consequent fore-renting. I have seen instances long ago of fore-rented farms being advertised, and the competition caused a great increase of

rental. That would still be the case if the law were changed, for there is much more agricultural capital now in the country. James Murray.

To Mr Hope.—I do not think there is any lack of capital among the farmers, enabling them to take their farms fore-rented.

To Mr Curror.—I should be happy to pay fore-rent if I got 5 per cent. discount, which would save me £60, besides saving some of the public burdens.

To the Chairman.—I think that the smaller tenants I am acquainted with would be quite as able to pay fore-rent as the larger ones.

(80.) Mr WILLIAM RUTHERFORD.

To Mr Murray.—I have been for thirty years a writer in Galashiels, and have charge of a number of properties in the district as factor. I am also agent for several farmers. I do not recollect during these thirty years of exercising the law of hypothec, except in the case of one small tenant. The farms are generally large, either arable or stock-farms, with perhaps 200 or 300 acres of white crop, and with thirty to a hundred score of sheep. We have got on well with the law as it stands, and our rents are all well paid. I do not think the law has had any injurious effect either on landlord or tenant. I would deprecate any interference with it. I have been a bank-agent for a number of years, and have had a great many dealings with tenants of all kinds. I do not think the law of hypothec has any effect in raising the rent of land. I have generally observed that the richest men were amongst the highest offerers. I do not think the law of hypothec makes landlords careless in selecting their tenants. I have always anxiously inquired into a tenant's means and skill, and I have had many applications from other factors for information. It is not the case that the highest offerers are taken, trusting to the law of hypothec. I never thought of it in connection with letting a farm. I do not think the law has any effect in preventing tenants getting an advance. I think, speaking from my experience as a banker, tenants, who are industrious and skilful men, can easily get as much money from the banks as they require. I never knew an instance of following the grain in my district. It would be cutting a limb off the law to take away that power; but I think it is of little value to the landlord, and that it is matter of indifference whether that be given up or not. I would allow sale by sample the privilege of sale by bulk, but the sale would require to be perfected by delivery. I think it would be very cruel to require the landlord to make his hypothec effectual by selling within three months after each term, or to lose it. I think the present law could not be improved on that point. I think the change would be harsh to the tenant, and disagreeable to both parties. The publication of sequestration would be very cruel. Before coming to Galashiels, I was about ten years depute sheriff-clerk of Roxburgh. The sequestrations then came all through my hands, and I should say that eight out of ten never came the length of a sale. Sequestration is frequently resorted to because the agent or factor cannot take the responsibility of allowing the hypothec to expire. It would be very cruel therefore to publish these sequestrations to the world. With mercantile sequestrations it is different, for there the debtor generally wishes to be gazetted, with the view perhaps of getting quit of troublesome creditors, and getting a discharge. But an agricultural sequestration is generally a mere matter of form. Its publication is also of little consequence to the general public. The landlord, the agent and his clerks, the sheriff, sheriff-clerk and his clerks, and the sheriff-officers and their assistants, all know of it; and the execution of it cannot be accomplished without the farm-servants knowing it. The consequence is that, if any one is sequestrated in the district, it immediately becomes known next market-day, and further publication of the matter would serve no purpose. William Rutherford.

To Mr Curror.—If the law of hypothec were abolished, the result would be that farms would be fore-rented, or the landlord would demand his back-rent more sternly. I think the tenantry in my district would be able to pay fore-rents. It is a very flourishing district so far as farmers are concerned. I have not had one penny of arrear of rent for the last thirty years. I have never given nor even been asked for a penny of reduction. I have spoken to a good many farmers on the subject. I find that some of them are of opinion that the abolition of the law of hypothec would reduce the rent of land, but the majority are opposed to that view. I think it would have no effect either the one way or the

William Rutherford.

other. Many of the farmers think the law of hypothec the best friend they have, as enabling the landlord practically to give them a loan, and not too sternly to demand the rent when due.

To Mr Fleming.—I have known very few failures in my district. There was a farmer on Galawater failed seven or eight years ago. I was a creditor to the extent of nearly £200, and got 3s. 6d. a pound. The landlord was paid in full. The tenant had laid out a good deal in liming. There was a clause in the lease, that in the event of bankruptcy the lease should go to the landlord. If there were many such cases, it might alter my view of the matter. If there were sequestrations every week or two, as in Forfarshire, I might not then speak of sequestration as a matter of form. I think that already sequestrations are sufficiently published, so far as regards all those having interest in the matter. It would be cruel to put the farmer in the list of bankrupts to be published all over Scotland. I think there is a difference between the case of a farmer and the man whose bill is dishonoured. Landlords are generally humane creditors. The law of hypothec may help that; but I think the landlord who has an industrious and skilful tenant, is anxious to serve him as much as he can, and not to injure him in his pocket or his feelings. I do not know how it would be if the landlord had no security. Farmers generally have few creditors—perhaps more now-a-days than they used to have—and they are among the surest payers, though not always quick payers. A man might be sequestrated, not being able to pay from not having sold cattle and sheep sufficient at the time.

To Mr M'Lagan.—A great many tenants can pay their debts though they have been sequestrated; and in most cases the manure agent sustains no injury from giving the farmer goods in ignorance of the sequestration. I believe farmers really unable to pay would despise such an act as to go to the manure merchant.

To Mr Curror.—Our rents are paid at Candlemas and Lammas, both for arable and stock-farms. I do not think there would be ten or twelve sequestrations in a year when I was in Roxburgh. I have seen some tenants sequestrated two or three years in succession.

To Mr Hope.—The rental of the estates under my management is over £10,000. I have known high offers made for farms requiring large outlay by the tenant. In a recent case in Berwickshire, a farm was let at a rent of £1234, and there was a great deal done to it by the tenant.

To Mr Carnegie.—I should certainly think it very hard for a man to be reported as under sequestration when he is not; but I do not think it is likely that such reports should get abroad. If the term is about to expire, an agent has often to sequestrate for his own exoneration.

(81.) Colonel WILLIAM GRAHAM.

Colonel Graham.

To the Chairman.—I am proprietor of the estate of Mossknow in the county of Dumfries. My estate lies in Lower Annandale, from eighty to a hundred feet above the level of the sea. It consists of about 5000 arable acres, all laid out in small farms, and of very varied quality. The value is entered in the county books at under £5000 a year. I have managed the property about thirty years. I have employed no factor; I draw my own leases, let my own farms, and receive my own rents, as my father did before me for forty years. The entry is at Martinmas as to the arable lands, and at the Whitsunday following as to the houses and pasture. The first rent is payable at Martinmas after entry, and the second at Whitsunday following, a year and a half after entry to the arable lands. I have about twenty tenants. The farms are from 350 to 150 arable acres each, the leases for fifteen years, and the rents are from £600 to £150. I have not been obliged to exercise my right of hypothec above four times. There are no arrears on the estate, and never have been above £100. I myself farm about 800 acres, and have always done so; changing my farm, letting one and taking another. I have, since I knew I was to be a witness, made considerable inquiry as to the feelings of all classes of people in my neighbourhood, and I think I can speak of the opinion generally entertained. I have consulted both bank-agents, land-agents, and at a meeting, at which I was present, of factors, agents, proprietors, bankers, and merchants, I introduced the subject; and I found they were unanimous in thinking that, if the law were abrogated, the consequences

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would be very disastrous. They thought that the tenantry could not prepay their rents, and that that would be quite necessary if the landlords were to have any security at all. I do not think landlords would be satisfied without prepayment if the hypothec were abolished, for otherwise they would have no security. I think there is nothing unjust in the fact of a landlord having a preferable security, just as a man who lends money on a heritable security. The proprietor lends his land—drained, housed, and fenced—on a lease of fifteen or nineteen years, and it appears to me that the landlord is entitled to some preferential security. He gets a lower interest than if he invested his money in almost anything else; in short, estates have been purchased in my neighbourhood which I do not think will yield 3 per cent. As to bank-agents, I was told by one of them the other day, that he never considered the law of hypothec in dealing with farmers. I do not think that tradespeople sustain loss from the existence of the law. The manure or seed merchant supplies his goods in the spring, and he is paid in less than six months, while the landlord gets nothing for that crop for twelve months after entry. I heard a merchant, carrying on an extensive trade, say the other day that he had not lost £20 in twenty years in dealing with tenants. The tenants in my district do not use so much artificial manure as others; from growing so much oats we produce more manure, but all get artificial manure and use it. The dealers give from three to six months' credit, but in some cases at least 2s. per ton per month is charged after delivery. I think the law of hypothec benefits farmers with small capital, and we have not many with large capital in our district; they are enabled to conduct their farms well, and to rear their families respectably. I believe if they were called upon to prepay their rents, the greater number of them must give up. They would endeavour not to descend in their sphere of life, and would probably emigrate. I believe merchants generally inquire into the position of farmers before they deal with them. They have better opportunity of inquiry into the farmer's position, than the landlord has of ascertaining the means of offerers; for there the farmer is, with his house and farm, and information is easily got as to his stability. I by no means think the existence of the law of hypothec makes the landlord careless. In my opinion landlords never consider the hypothec in letting a farm, because they well know that if they exercise it they will be losers, and that they will deteriorate the character of the farm, and perhaps not get so high a rent from the next tenant. Sequestrations have not been frequent in my district. I am favourable to the maintenance of the present law in its general features. I think the power of following should be retained. Take away that, and you most likely engender collusion between an ill-behaved tenant and the merchant. I would not protect the sale by sample; for in that way a man might sell his whole crop in five minutes, and be paid by a bill at six months, the landlord knowing nothing about it. I would keep the law as it is; it is not much exercised, and it is a wholesome restraint. But I think the present law is attended with some hardship to the tradespeople who work on the farm. I think the smith and the carpenter should be placed in the same position as farm-servants. There is this difference between their case and that of the millwright or implement-maker, that these artisans are generally living on the farm. In many cases they are on houses belonging to the farm, and they are bound to give their work to the farm, and cannot in fact afford to refuse any work brought to them. I do not think it would be difficult to make a distinction between them and others, such as the machine-maker, who is practically a merchant. Although not working for a single tenant, I would give the smith and carpenter a preference for the work done for the last six months for or upon the farm. I would also suggest that there might be publicity given to a certain extent to sequestrations; not so much as in mercantile sequestrations, for it would be harsh that a man should be gazetted for every six months' rent. But the sheriff-clerk should be obliged to keep a register open to reference. I would also limit the landlord's right to every six months, giving him three or four months to exercise it if the rent is unpaid; if he did not sequestrate in that time, the hypothec should be lost. I have made some inquiry into the English law, and I think the English proprietor has much more security now than the Scotch. There is, in the first place, no limit in point of time to his power of distraint, provided only he comes in first; secondly, he is entitled to follow a crop where it is taken away fraudulently; thirdly, if a person other than the landlord levies an execution, he must pay the landlord a year's rent before he can remove anything

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from the farm. I think these securities are stronger than the hypothec. The proprietor has also security on the tillage paid by the incoming to the outgoing tenant. I think any changes in the law further than those I have indicated would be injurious. It must be recollected that the farm is not let to the man only, but to him and his heirs. If the eldest son takes the lease, he succeeds to none of the other effects. I asked two law-agents the other day what would be the result, if the law were abolished, in the case of a tenant who died; and they said they believed the landlord would lose two years' rent sometimes, and a year and a half in many instances. The law might require some alteration in these respects. It appears to me that the agricultural interests of Scotland have thriven remarkably well under this law. I have endeavoured to find anybody in my district who is discontented with it, and I cannot. It must be considered that great numbers of respectable families have been reared, and great wealth made in agriculture, under this law, which is less stringent than that they have in England.

To Mr M'Lagan.—I hardly think it would be enough to require delivery and payment of grain sold by sample to protect it from being followed. But the law is seldom put in force; and as the farm is let not to a man, but to him and his heirs, you may have a very bad tenant succeeding. It would also be difficult to prevent collusive transactions. I know of a transaction at present between a tenant and a cattle-dealer, in which a bill at three months was given. I feel certain it was a collusive sale, though it would be difficult indeed to prove it. The stock is still on the farm, and the only way to find out whether it is a *bonâ fide* sale is to ascertain whether the cattle-dealer is taking any interest in the stock, and the factor is obliged quietly to put a watch on it. Now it would be well not to encourage transactions of that kind.

To Mr Curror.—Of the four sequestrations I mentioned, two occurred above twenty years ago, and were not of large extent. The third was the case of a man of bad character, whom I had taken on the best of recommendations, and I lost a great deal of money by him. I have asked factors the question, and they have told me that they never knew of any case of a sequestration being enforced in which the landlord did not lose money, besides the deterioration of his farm and of his credit,—in fact, it is the last thing the landlord thinks of. There would be the greatest difficulty in paying fore-rents in my neighbourhood. I hope the tenants all have a year's rent besides their crop and stock, but still they are not men of capital. If the rents were prepaid, they would of course be less by the interest of the money for the time. We have not many changes in the tenantry in my neighbourhood. Many of them have been on their farms a long time. I relet this year two farms to tenants born on the property. Their leases do not expire for three years, but I gave them new leases for the end of three years, and they both offered a considerable rise without my asking it. That may give you an idea that our farms are not over-rented. I should be unwilling to ask these men for prepayment. They are very respectable men, with large families to rear, some of them perhaps to be put out on farms. *Q.* You consider the tenants have been paying interest in consequence of being back-rented?—*A.* No; tenants are obliged to give credit as well as to get it. They have to give credit to cattle-dealers in many instances, to butchers, to millers, to wool-staplers, and to dairymen. This very year a tenant of mine lost a whole summer's milk in consequence of the failure of a dairyman in Glasgow, who paid only 1s. in the pound. Then in the case of cattle, the dealers always get credit till they have sold the stock. Then with wool, we had an agent coming down from Bradford, to whom a great many of us sold our wool for two years in succession, and were promptly paid; but the third time, after he had purchased very largely, and we were to be paid as formerly on delivery, we no sooner sent our wool on by rail than he became bankrupt, and paid us with 1s. in the pound. About as many of our farms are let without advertising as with. We have not had so many applicants the last three years, but up to three years ago the rents had risen considerably. They are falling now, on account of the low price of grain. If, by the abolition of the law of hypothec, you drove away the small farmers, I believe the half of Scotland would not be cultivated. Our land is not of the quality that would induce wealthy tenants to take it. I think a capital of £2 an acre, with stock and crop, would be sufficient to take one of my farms. Our climate will not allow us to grow wheat; our land will not allow us to grow barley; so we are left to oats, potatoes, and turnips. It used to be a six years' rotation

with us; now it has come very much to be five. I am sorry to say our farmers cut too much hay, unless prevented doing so by the lease. Colonel Graham.

To Mr Hope.—I believe not one in ten could prepay their rents with us. The abolition of the law of hypothec would be disastrous to the landlord as well as the tenant. A great deal of money is lent on mortgage on land, and the Government have lent large sums for draining, and I think the abolition of the hypothec would weaken the security both of the mortgagees and the Drainage Commissioners. Proprietors would require to take what rent they could get. The law of hypothec, though seldom exercised, has its influence as a security to the landlord. There is the greatest difficulty in knowing the position of offerers, as bank-agents will not tell what capital they have. My usual question is in these terms:—Has the offerer sufficient capital to stock and crop such a farm? I never got a specific answer as to the amount.

To Mr Fleming.—The rent payable by the tenant is a commuted portion of the crop, and therefore arises the landlord's right to follow. A purchaser ought to make inquiry as to the seller's stability, as in other transactions. If the man is reported stable, he must just run the risk. The factor or banker will tell him if it is prudent to make the purchase. *Q.* The object of postponing payment of the rent is to enable the tenant to sell his crop; suppose, then, for the Martinmas rent the farmer goes into the market in October, is it not a hardship to the purchaser that, probably after he has made inquiry and been told that the farmer is not in arrear, he should be compelled to pay a second time to the landlord that which he had already paid to the tenant?—*A.* I think there are very few landlords that would make such a purchaser liable. I have heard of various instances where the crop had been followed, but where the landlord, when he learned the circumstances of the purchase, did not put the hypothec in force. I should think it will be found that there is something not very straightforward in the transaction in regard to which this right has been exercised. The ground, on which I would maintain the landlord's right to follow, is the providing a protection against fraud.

To the Chairman.—I am convinced that, if the law of hypothec is abolished, great injury will be done in my district to a large class of hard-working, highly deserving farmers, who would be much harassed by the change. Our labouring classes are, I regret to say, going backward; but our farming classes, of the description I have mentioned, are improving every day, rearing families for useful purposes, for the army and otherwise.

Tuesday, February 28, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.
THE LORD PROVOST OF EDINBURGH.
MR MURRAY.
MR FLEMING.
MR HOPE.
MR M'LAGAN.
MR CURROR.

(82.) COLONEL WILLIAM M'INROY.

To the Chairman.—I am proprietor of The Burn, Kincardineshire. I have cultivated part of my own lands for twenty-five years. I have about forty tenants, who occupy farms of different sizes, and the rents of which range from £500 downwards. I presided at a meeting held in the county of Kincardine on the subject of the law of hypothec. I was asked by one or two influential farmers to attend and preside, but I had formed no opinion on the subject at that time. I knew it was a subject which interested the farmers, and I attended without committing myself to any of the opinions brought forward. I was ignorant of the resolutions which were to be proposed, and in taking the chair I said I held myself quite free upon the subject. I should think about 150 per- Colonel M'Inroy.

Colonel M'Inroy.

sons were present, including a good number of the leading farmers, though, as it is a district which I am not personally acquainted with, I cannot say whether they were the most influential farmers or not. The resolutions were carried unanimously. There was no dissent except on the part of one proprietor. I was very much startled at the resolutions come to at the meeting. It appeared to me that, if the grievances were fairly stated, there was an enormous abuse. I had paid no attention to the subject before; but, in consequence of these resolutions, I thought of it a good deal. I was aware that the law had existed for centuries in Scotland, and I was aware that Scotland had advanced very much agriculturally; but I was very much startled by the grievances stated. The result of the consideration which I have given to the subject is, that on the whole I think it is a beneficial law, and more beneficial to tenants of a certain class than to landlords—I mean tenants who are supposed to be struggling with insufficient capital. I don't think it affects men of capital at all, or very remotely. I can only form my opinion from what I know,—that, in face of the law, agriculture in Scotland has progressed. I don't think the law has had any immediate or palpable effect on the general question of the rise of rents. I think a man may make a very good tenant who has only means to stock a farm, and it is a great advantage to him to get the use of a year's rent from the landlord. A great many rising men, unexceptionable in character, must exist, who only want the element of being flush of capital. I think such men must be benefited by having a year's rent in their hands, without giving any other security for it except what the law of the land provides; and having that security, the landlord gives them the use of one-sixth or one-fifth of the whole capital employed on the farm. I think fore-renting would be the necessary result of an abolition of the law, or some other security which would be inconvenient to many tenants, and which must place them under obligations to parties, with whom they are not so nearly connected as they are with the landlord. I should think that a considerable proportion of tenants would find it very inconvenient to pay forehand rents. There are a number of small tenants in Kincardineshire. *Q.* How do you account for the fact which we have been told, that the small tenants signed the petition for the abolition of the law as numerously as the larger tenants?—*A.* I think three-fourths of the tenantry are not able to separate this question from the question of the rise of rents. They trace to the existence of the law of hypothec the high rents from which they are now suffering; and no doubt in many cases the rents are high. I believe it is almost a universal opinion of tenants, that the abolition of the law would lead to a reduction of rents. I do not say that the law of hypothec has no effect on rents, but I think it is infinitesimal. The rise of rents has been very remarkable within the last twenty years, and I attribute that to various causes. Within forty years an immense change has taken place, all over Scotland, in the increased cultivation of every farm. I live on the border of Kincardineshire and Forfarshire, and I can say that almost every farm in these counties forty years ago consisted of a considerable proportion of uncultivated land, and tenants in the course of their lease took in that land; the result being, that at the end of their leases the rents rose, as a direct consequence of the increased value of the subject by the exertions of the tenant. Then again, about twenty years ago an immense stimulus was given to agriculture by the general introduction of Mr Smith of Deanston's drainage system; and almost coincident with that there was the introduction of guano. Tenants found that the best land, by being properly drained, would yield nearly double the crop they had been getting from it, and land coming out of lease immediately rose in consequence of that. The Crimean war gave an additional impulse to rents, and that was followed almost immediately by the failure of the potato crop in England; and as it only extended gradually to Scotland, there was during that period an immense additional value given to land, particularly in Kincardineshire and Forfarshire. All these causes combined made rents rise rapidly; and no doubt farmers, like other people, in prosperous times are induced to give rents which they would not do if they looked forward to a reactionary movement. I know it is asserted, that it is the law of hypothec which has induced undue competition for farms; but that appears to me inconsistent with the fact of the existence of the law for ages, and I can account to myself satisfactorily for it altogether independent of the law of hypothec. My opinion is, that no fault would have been found with the hypothec if rents had not risen, from the causes I have mentioned, to, in many cases, with present prices, an unreasonable extent. The causes I have

Colonel M'Inroy.

stated brought tradesmen and men of capital to compete for farms, and they are not affected by the hypothec. Men of capital need not care whether it exists or not. I don't believe that any landlord, possessing any judgment, would let his farm to a tenant whom he knew to possess no capital, or insufficient capital, because in a few years the farm must be thrown on his hands in a deteriorated condition. I know that cases of this kind have happened. A man starts upon a farm which is not drained, or on which there is a good deal to do; he gets credit from his friends, and he invests extensively on the farm. You may trace his imprudence to an absence of capital, or to reckless expenditure of the capital which he had. His friends or the banks cease to support him, and he breaks down. The farm may be returned to the landlord with some improvements, but that, I should say, is quite exceptional. The probability is that the man struggles on for years with diminishing means, and during that time there is a gradual process of deterioration going on. If there are cases in Kincardineshire or Forfarshire in which landlords have got back their farms in an improved condition on the bankruptcy of a tenant, and got a larger rent for them, I think these are exceptional. Of course, a certain management pursued in a certain district would produce a number of instances of the same kind; but, applied to Scotland, I should hold it to be quite exceptional. I cannot see why the law of hypothec should have any effect in curtailing the credit of tenants with banks. Of course, you cannot know a tenant's private debts; but, if he occupies a farm on the back-rented system, the banker and every one dealing with him knows that he is liable for two years' rent under all circumstances, except when he has just paid a rent, when he will be liable for only three half-years' rents; and if he has his farm well stocked, and is a man of good character, I don't see that that should affect his credit with the banks; and his friends ought to know the state of his affairs. I think the abolition of the law, accompanied by fore-rents or other security, would be injurious to the smaller class of tenants. I cannot say what would become of them. I can form no opinion what would become of the farms. If it had the effect of making larger farms, I think it would be a very great evil; that has gone far enough already. But I think it would have an injurious result in changing the agricultural position of the country. It is a great advantage that there should be a gradation of farms, beginning with small ones, and that every district of country should have farms of different sizes. It is very objectionable that they should be all large farms. *Q.* Have there been many sequestrations in your district?—*A.* I have no knowledge of it. I never had occasion myself to sequestrate, and I have not inquired; but no case has come within my knowledge in my vicinity. If it were very notorious, I must have heard of it. I have heard of bad cases of failure in the vicinity, but they have not been numerous. There was one case which was well known in the district. The grieve or steward of a neighbour of mine took a farm, and, on examination of his affairs, it appeared that he had entered on it with only £100 of capital. It was a large farm, requiring £3000 or £4000 to stock it. I conclude that the landlord must have been misinformed as to the means of that tenant, because he must have been mad to take him under such circumstances if he knew the facts. I have heard that that tenant was largely supported by certain relations, who gave him money to start with; and no doubt he represented to the factor or the landlord that he was possessed of certain means, without explaining that they were lent to him. When a man offers for a farm, I presume he does not always state the facts to the landlord. If he is supported by credit, he does not always say so. It must be very difficult for landlords or factors to make themselves thoroughly aware of the position of a tenant; and though he may be in a good position when he enters on a farm, he may, from other speculations, turn out a very bad tenant.

To the Lord Provost.—I never heard of any case of following grain in my district. I asked a farmer, who has been there for fifty-seven years, and he told me that he never heard of such a case. It is therefore so exceptional as not to amount to a grievance; and though it looks hard that such a thing should occur, still it is a check on any fraudulent dealings. I think sequestrations should be published. I have been nearly forty years a proprietor in Scotland, and I never had anything to do with a sequestration or any process of the kind, except once, and that was not my own act. I bought my estate with a tenant on it who was under sequestration, and the sequestration was carried out by the previous proprietor.

Colonel M'Inroy.

To Mr Carnegie.—I think the law is of advantage to tenants with small capital—tenants with capital sufficient to carry on, but who are not flush of money. Of course I do not mean that a man should take a farm altogether in reliance on the support he derives from the law of hypothec; but I hold that a man with insufficient or bare capital has an advantage in the hypothec, which gives him fully one-fifth of the whole stocking on the farm to operate on for a year or fifteen months. *Q.* Do you see any reason why small farms should not coexist with forehanded rents?—*A.* I have seen it assumed that there were plenty of farmers in Scotland who, if the hypothec were done away with, would be in a position to pay forehand rents over the whole country. I don't believe that. On my own estate all the tenants begin paying their rents fifteen months after entry, and that is the case all over the county so far as my knowledge goes. I think it would be very reasonable to modify the action of the hypothec in this way. Under the present law the landlord can claim for three months after the last conventional term of payment. I would limit that to a period beyond each half-year. That is to say, suppose a tenant begins at Candlemas to pay half his year's rent for this crop, if he don't pay it, I should limit the landlord's right of hypothec to a certain period after that term. I would not allow him to go on for a year's arrears, and then give him three months after Lammas to claim for the whole year. I would make it necessary that he should sequestrate for each half-year's rent, and allow him six weeks or two months for that purpose; the object of the hypothec not being so much to assist the tenant as to ensure the landlord's rent. As matter of justice to other creditors, if the landlord allows the tenant to go on for a longer period, he should then rank merely as a common creditor. I have not considered whether there ought to be a statutory irritancy of a lease in the case of bankruptcy. *Q.* Do you think it would be desirable to enable the landlord to get quit of an insolvent tenant more quickly than he can now do?—*A.* The sooner he gets rid of an insolvent tenant the better. When a tenant gets into difficulties he generally goes on getting deeper and deeper, in the vain hope that his circumstances will improve; and the cause of the small dividend on the bankruptcy of tenants would never occur, if the landlord had power to eject a tenant on other grounds than his shortcomings in the payment of rent. A landlord may be cognizant of the daily diminishing means of a tenant, his stock may be sold, his grass let for cattle, and he may have nothing except the crop in the ground, some miserable implements, and a few starved horses,—but as long as he pays his rent and is supported by others, the landlord cannot eject him. It is the middle-men who do the mischief.

To Mr Hope.—The law of hypothec has never affected me personally. I have had very few changes on my estate. In the course of thirty years, probably one or two tenants have died out. I never found any difficulty in getting new tenants. I never had any arrears, and always got good tenants. I have had very little occasion to inquire about them, as I have had very few changes; but when I did change, I inquired into the character and circumstances of offerers. I cannot say whether the tenants of Kincardineshire generally have sufficient means for carrying on their farms beneficially. Some time ago there was great competition for farms to let, but I should think there is very little now. I consider the law beneficial to tenants who are not flush of money, as it gives them additional capital on the easiest terms possible, though it would be very much better if they had means of their own. *Q.* Do you not think the law induces landlords to take men with barely sufficient means?—*A.* I think it must have a very remote action indeed in that way with any sensible landlord or factor. There may be exceptions, but I should think it was not the rule. *Q.* You don't think it tends to increase the competition for farms?—*A.* In a very small degree. I don't think it has been the cause of that competition of late years. In my county the grain is all sold by sample, not by bulk.

To the Chairman.—Notwithstanding that, I would not extend the privilege which at present attaches to sales in bulk to sales by sample. I consider that, though the law is rarely put in operation, it acts as a complete check to fraudulent sales.

To Mr Hope.—It is a great advantage to a tenant to get from his landlord a sum equivalent to one-fourth or one-fifth of the value of his whole stock for nothing, because the interest is never calculated, instead of borrowing it from a banker. *Q.* Is the payment of rent not delayed to enable the tenant to sell his

crop?—*A*. It gives him a longer time to dispose of his crop, and it is reasonable that he should realize the subject out of which he is to pay his rent. *Q*. Then, where there are no bulk markets, the grain must be sold by sample; and the people who buy in that way remain bound for the rent?—*A*. That would be the effect if the law were carried out, but practically it is a dead letter. Colonel M'Inroy.

To Mr Murray.—I have property in Perthshire, and my brother, Mr M'Inroy of Lude, has a large estate there. The opinions which I have expressed, as to the effect of the abolition of the law on small tenants in Kincardineshire and Forfarshire, apply equally to the small tenants in the Atholl and other districts of Perthshire.

To Mr Fleming.—I do not think there is any greater risk of fraud occurring in transactions with farmers than with other classes of the community. If the landlord had not the power of following grain, very extensive collusion might take place. *Q*. Are you aware that, as regards the sale of all other commodities, no such protection is given?—*A*. Yes. *Q*. Then what constitutes the distinction between the two cases?—*A*. I think land is entitled to greater protection than any other description of property. *Q*. Suppose a dealer in cotton supplies to a manufacturer the raw material to be manufactured, the manufacturer sells the goods, retaining possession of them, and the law says that sale is good without delivery provided the price be paid. The landlord supplies the land out of which the grain is produced,—why should he be protected against a possible fraud on the part of his tenant, when you deny protection to the dealer in cotton against the possible fraud of the manufacturer?—*A*. But I don't think that in the one case it is sold in good faith; it may be a fraudulent sale on the part of the tenant. *Q*. Is not the object of back-renting to enable the farmer to sell his crop to pay his rent?—*A*. It is. *Q*. Then is he guilty of fraud, in all circumstances, when he sells his crop to pay his rent?—*A*. I cannot go into these nice distinctions, but practically the thing appears to work well, because, though the law exists, it is not carried into operation. I think a landlord should be compelled to sequestrate for each half-year's rent, so that if the tenant failed to pay at Martinmas, for example, the landlord should sequestrate within a short period for that half-year's rent, and if the creditors went on and worked the farm, they must pay the rent for the following year. In that way the landlord would have a preference for two full years' rents; but, instead of allowing him three months after the second conventional term of payment, when a whole year's rent was due, I would make it necessary for him to act on his hypothec immediately after the half-year's rent was due.

(83.) Mr PETER BURN SWINTON.

To Mr Carnegie.—I am factor for the Marquis of Tweeddale. I do not myself farm. Lord Tweeddale has about sixty tenants, whose rents vary from £5 to nearly £2000. The general period of entry is Whitsunday and separation of crop, but there are also Martinmas entries. The rent is payable generally at Candlemas and Lammas after reaping. There are only three purely sheep-farms on the estate. The entry to about half of the arable farms is at Whitsunday and separation of crop; the others enter at Martinmas. The great majority of these farms are back-rented. There is only one purely arable farm fore-rented on the estate. Most of the farms which are half pasture and half arable are fore-rented as regards the arable portion. The tenants enter at Whitsunday to the grass, and pay the first half-year's rent at the following Martinmas. I have paid a little attention to the law of hypothec. I do not see any necessity for any alteration, except in regard to the following of grain sold by sample. Where it has been *bonâ fide* sold and delivered off the farm, it should be free from the landlord's hypothec. That is the only alteration I would suggest. A private sale should be held equivalent to a sale by sample, and after delivery it should be protected. I do not think it would be advisable to publish sequestrations. I think they get sufficient publicity already. I can hardly think it possible that manure merchants or others could have sold to tenants actually under sequestration without knowing it, because a sequestration is very well known, at all events in the district. Very few sequestrations take place in East Lothian but what are known in Haddington market the following Friday. It would be very difficult to find an equivalent to the landlord for the law of Peter Burn Swinton.

Peter Burn Swinton.

hypothec. If it were abolished, I have no doubt that landlords would take some step or other to secure payment of their rents, and very probably it would be by asking fore-rent; they must either have that or some other security. If fore-rents were introduced, I think there would be greater difficulty in letting land than exists at present, because fore-rent means locking up a tenant's capital to the extent of a year's rent during the whole lease. I do not think any change would be desirable in regard to the time during which the landlord can exercise his right of sequestration.

To Mr Fleming.—I do not see how the preference of a landlord could be limited in the case of bankruptcy to one year's rent, because the tenant is at all times liable for part of two years' rent. Under the present system, a man entering to a farm at Whitsunday and separation of the crop, before he reaps the crop of the first year, has entered on possession for a second year.

To Mr Hope.—That is so also in regard to a Martinmas entry to some extent, because a tenant has generally sown a portion of his wheat-crop for the following year, and he has sown the grass seeds of next crop.

To Mr Fleming.—I think fore-renting is wrong in principle, because rent is not payable for the mere occupation of the land, but for its produce; and, till the tenant gets the produce of the land in a fit state to send to market, he should not be called on to pay rent. The seed is as essential as the land to produce a crop, but it does not follow that he should not pay for the seed till his crop is sold, because he gets the seed delivered to him, and he might sell it. *Q.* Is there any distinction between land as the means to the end of producing a crop, and cotton as the means to the end of producing manufactured goods?—*A.* You get possession of the cotton, not the mere use of it; you only get the use of the land. You buy the cotton; you don't buy the land itself. *Q.* If you sell a growing crop, is that not a way of converting the use of land into money before the crop is produced?—*A.* But it is not marketable till it is reaped. Fore-renting ought not to reduce rents more than the interest on the sum paid. I think it would reduce them to that extent.

To Mr Hope.—The whole of Lord Tweeddale's land is farmed on the five-course shift. Entering at Whitsunday, the tenant gets two-fifths in grass, one-fifth in fallow, and the outgoing tenant's crop is two-fifths. Some pay rents at Martinmas and some at Candlemas after reaping. In most cases they have paid the outgoing tenant for the young grass and fallow, and some pay for the work only. I prefer a Martinmas entry. During these twenty years there have been only four sequestrations against tenants on the Marquis of Tweeddale's estate. In none of these cases was the inability of the tenant to pay rent caused by the farm being too high rented. In one case the tenant lost his capital by becoming security for a friend, and was unable to go on with the farm. He got a discharge of an arrear amounting to about a half-year's rent, and renounced his lease, and the farm was immediately relet at an advance of rent. In another case the tenant met with a serious loss by a cattle-dealer who absconded. In this and the other two cases the friends of the tenants came forward and paid up the rents, and they were enabled to continue in their farms. There were no sales under any of these sequestrations. In one of these three cases, the tenant remained in his farm after compounding with his creditors. The friends came forward and paid the rent. The reason of that was that the lease was a good one, and they did not wish to lose it. *Q.* But the creditors were forced to compound for a smaller sum, than if they had had the stock to divide among them?—*A.* I understand they accepted a composition.

To Mr M'Lagan.—If the law were abolished, I should not be content with fore-rent; I would require some collateral security or caution. I think it would be a bad thing for tenants, if they were called on to find personal security for their rents, because they could not refuse to be security for others in the same way. It would introduce a bad system into the management of land. There has been no difficulty in letting farms on Lord Tweeddale's estate in East Lothian, except in one case. There have been only two farms advertised to let on the estate for twenty years. They are usually let by private bargain, and his lordship is very careful to get the best tenants. The last occasion on which a farm was advertised was two years ago. It was a farm on an estate to which the Marquis recently succeeded as heir of entail. The tenant left the farm in an utterly exhausted condition, and a tenant of capital alone could take it. No one having offered privately for the farm, it was advertised; but no offer having

been made, the Marquis had to take the farm into his own hands, and has since made extensive improvements thereon. I mention this to show, that it is not at all times possible to get a tenant of capital to take land. Peter Burn Swinton.

To Mr Hope.—The farm was offered as it stood, on a lease of nineteen years, the only stipulation being that it should be farmed according to the five-course shift. No expenditure by the tenant was stipulated for. The offices were in very good order. His lordship is carrying on the farm with them, and we find them sufficient. It has cost a good deal of money for draining, and Lord Tweeddale is doing that himself. It is a farm of 350 Scotch acres, and the whole required to be drained. It has not cost so much as I anticipated, because it had been nearly all drained before, but in a very shallow and superficial manner. We have not required many new tiles for it. The draining has consisted of deepening the old drains and putting soles in. It is impossible to say if it has paid his lordship. He has not had possession of it for two years yet. There has only been one crop. There has been no profit as yet. Last year's crop was very good on the drained land.

To Mr M'Lagan.—The name of the farm is Newhall. It was left in a state of utter exhaustion. The outgoing tenant did not reap some of the last crop. There has been a general rise of rents in East Lothian. In the lower district that was caused very much by the potato trade; and the general rise in the price of wool and stock has tended to raise the rents in the upper district. I do not attribute the rise to the existence of the law of hypothec. There has been a considerable change of tenants on some estates, but not on Lord Tweeddale's. So far as my observation goes, the new tenants have done well.

To Mr Fleming.—I do not think it would be an improvement to compel the landlord to use his hypothec immediately after the expiry of each half-year, or lose his preference.

To the Chairman.—I think that would be hard on many tenants, especially in late districts.

To Mr M'Lagan.—I have known instances where tenants have been very much benefited by landlords showing indulgence to them in regard to paying their rents, and these tenants have ultimately thriven and become prosperous men. There have been several instances of that kind on Lord Tweeddale's estate. If the time within which the landlord had to use sequestration had been shortened, and sequestrations had been published, the credit of these tenants would have been injured.

To the Chairman.—I have conversed with a good many of the tenants in East Lothian on the subject of the law of hypothec, and the majority of the tenantry that I have come in contact with are in favour of the continuance of the present law.

(84.) Mr JAMES MITCHELL.

To Mr Murray.—I am a solicitor and bank-agent in Pitlochry. I have been about twenty-five years in business. I have been agent for the Union Bank for twelve years, but I was connected with a bank as accountant for ten years before that. I am factor on several properties in the district, representing a rental of about £10,000 a year. I am agent for a great many tenants in the district. I am intimately acquainted with the tenants in the district, and with their circumstances. On the properties for which I am factor they are almost all small tenants, with rentals under £100 a year. For the grazing farms the entry is at Whitsunday, and the rents are payable at Martinmas and Whitsunday. These are accounted forehand rents. To the arable farms the entry is at Whitsunday and separation of crop, and the rent is payable at Whitsunday and Martinmas the year after. On three estates that I am connected with the tenants only pay once a year,—at Candlemas, eighteen months after entry. I have only had five or six sequestrations among tenants since I went to Pitlochry, and there have not been many in the district. I consider that it would be injurious to the small tenants to make any alteration on the law of hypothec. It would be injurious to abolish the law, because it would lead to prepaid rents, —that is, a full year's rent or half a year's rent on entry. I think it would be necessary for the landlords to do that, and I don't think the smaller tenants could conveniently pay them. Our tenants are not wealthy, but they are James Mitchell.

James Mitchell.

very industrious. Some of them have land which does not employ a pair of horses, but they employ their horses on the roads, and plough the ground of crofters who have no horses. The abolition of the law would have the effect of putting these men out, and they are a very industrious, well-doing class. I have put the question to them, and they say they would be very sorry to lose their farms, and to devote themselves to day labour. They are far more comfortable in every way as they are. I don't agree with those who say that they are in a worse position than farm-servants. All these small farms have farm steadings, which would be in a manner useless if the farms were made larger. That expenditure has been recently incurred. I think the result of the abolition of the law would be to make larger farms, because the tenants in my district would not be able to pay fore-rents. The landlords would require to get in men of capital, and a man of capital would never take a small farm. The effect of that would be to lessen the population of the district, and to drive away an industrious class of tenants. I may also state that, as a bank-agent for twelve years, I never lost a farthing by a tenant. As a class they pay their way as well as others, and yet they are not wealthy, and have enough to do to pay their rents. As a banker I would not give greater facilities to tenants if the law were abolished. I never look to the law of hypothec; I look more to the respectability and industry of the tenant. I never take the law of hypothec into consideration. I never let farms to tenants without capital, trusting to the law of hypothec. I never was instructed by any of my constituents to do so. I have been in the habit of getting farms valued, and offering them to the sitting tenant at the value put on them. In the case of new tenants I make every inquiry as to their farming skill. I have always taken the most respectable and industrious tenant, irrespective of the rent offered. On the Auchleeks estate, the proprietor of which is in minority, the whole letting was left to me, and I took the most respectable tenants I could get. I think that, if grain is sold *bonâ fide*, whether in sample or bulk, it should not be followed after delivery and payment. I see no objection to sequestrations being published. I never push tenants for their rents the first half-year. I do not consider them in arrear till the end of the year. If it were incumbent on landlords to sequestrate for each half-year's rent, it would be necessary for us to push them to pay the first half-year; and that, I think, would be injurious to tenants. Many tenants do not consider that they are in arrear at all till the end of the year.

To Mr M'Lagan.—A great many of the rents are only paid once a year, the term specified in the lease being Moulin market—the first Tuesday in March; and I have no doubt that has induced other tenants in the district to think that they are not in arrear till the year is out. On three estates that I have charge of, the rent is paid only once a year.

To Mr Murray.—I think that any serious alteration in the law would be very prejudicial to the tenants in my district.

To Mr Carnegie.—These tenants are very industrious, but they don't save money. Their farms are small, and they bring up large families. Within the last three years I have been letting farms without getting any increase of rent. *Q.* You have stated that men of capital would not take the small farms; might there not be men of small capital who would take a small farm which was within their reach?—*A.* But we have not got such men there. The small tenants have not capital. There may be tenants in other districts that would come in; but as to those I am connected with, I know to a certainty that they have not capital. There are exceptions, but I speak generally.

To Mr Hope.—I don't mean that the small tenants have no capital; they have capital to a certain extent. A man paying £100 a year should have £300 or £400 of capital. The abolition of the law would cause the proprietors to insist on getting prepayment of their rents, because otherwise they would have no security. Occasionally I give accommodation as a bank-agent to industrious tenants, and I sometimes refuse accommodation.

To Mr M'Lagan.—There has not been great competition for farms in my district, and the changes of tenants are not frequent. I think all our farms are moderately rented. Our land is more grazing than arable land. If the law were abolished, it would be necessary to have payment of a year's or half a year's rent on entry, and a statutory irritancy of the lease in the event of non-payment. Collateral security could scarcely be got for a lease. If grain were not delivered, I do not think it should be free from the landlord's hypothec.

James Mitchell.

To the Chairman.—If the law were abolished, I think proprietors would reduce the period of their leases to ten years.

To Mr Fleming.—I question if leases would be given at all. I have to do with one estate just now where there are no leases; and I believe one tenant and his predecessors have been on a farm for 100 years.

To Mr Hope.—We get about the same rent for these farms as for the others.

To the Chairman.—The rent of the property to which I refer is about £600.

To Mr Murray.—The rent of the tenant I have referred to is £30, and he pays twice a year. There has been no alteration in the rent of that farm for twenty-five years.

To Mr M'Lagan.—Crofters' families generally go out to service in the low country, and they are considered the most useful servants that can be got.

To Mr Fleming.—I never heard any complaints of the law of hypothec in my district. The tenants whom I have consulted consider, that the agitation arises from the large tenants trying to turn them out of their places.

To Mr M'Lagan.—I don't believe they ever thought about it till this Commission was appointed.

To Mr Murray.—They don't consider themselves at all degraded by the law.

(85.) Mr CHARLES DURIE.

Charles Durie.

To the Chairman.—I am tenant of Dalladies and Capo, partly in Forfarshire, but principally in Kincardineshire. I am secretary to the Fettercairn Farmers' Club. My farms extend to about 560 imperial acres, partly arable and partly pasture, and my rent is £435. My term of entry to one farm is Martinmas, and to the other at Whitsunday and Martinmas. The rent is payable at Candlemas after reaping, in both cases. I have no objection to these periods; I think they are fair. I cannot say that I have experienced any inconvenience from the law of hypothec either directly or indirectly. I have had opportunities of witnessing the effects of the law in my own neighbourhood. I have seen a class of men get farms, who never would have been farmers at all but for the law of hypothec. They had little or no capital to commence with, and some of them no experience. I don't think proprietors would have accepted such tenants without the law of hypothec to protect them. They were the means of putting out, by overbidding, a good class of men who were in the farms before. I was well acquainted with them, and knew their circumstances. They were good, substantial men. Many of the men who were preferred have failed already, with a large amount of debt. There have been six failures within three miles of me within the last three years, and they were all men who had not sufficient capital. Some of them had been grieves, and some were taken from other professions not connected with agriculture. One was a messenger-at-arms and a house-agent. These six cases were not under the same factor; they were on four different estates. These men were known in the neighbourhood, and the proprietors who took them had ample opportunities of knowing their means. Their deficiency of means was known in the district when they took their farms. They got credit for manures and other things which they required for their farms. *Q.* How did they get credit if their circumstances were well known?—*A.* They had continued in the farms and paid their accounts for a number of years, until the last year they were in; and, when they failed, the parties who trusted them lost. Manure merchants and others dealing with farmers have not the same chance of knowing the means of farmers that proprietors have. Bankers and others will give information to proprietors, which they will not give to other people. *Q.* But you said it was generally known in the district that these men had not capital?—*A.* I said it was generally known to some people; I did not say everybody knew it. The proprietors took them because they offered high rents, trusting to the law of hypothec. In the case of the house-agent and messenger-at-arms, the stock was put on the farm by the proprietor, and therefore he knew that the tenant was not able to stock the farm himself. When the tenant failed, he claimed the whole stock on the inventory at the entry of the tenant, and the other creditors only got what was left. *Q.* Was the landlord not entitled to the stock if it was his own?—*A.* I don't know; I am not acquainted with the law affecting such a case; but it was not fair to the

Charles Durie.

other parties, because it was not known till the man failed, that the stock belonged to the proprietor.

To Mr Murray.—The affair is not settled yet; but the tenant had disposed of part of the stock, and the landlord will suffer to that extent. *Q.* Then that is not a case which would encourage landlords to do likewise?—*A.* I should not think so; it puts the tenant in a false position towards his creditors.

To the Chairman.—The failures of these six persons came to £30,000. They were partly in Forfarshire and partly in Kincardineshire.

To Mr Murray.—Three of them were mixed up, I believe, in bill transactions.

To the Chairman.—The failures all took place in and since 1862. I don't know that the landlords have lost much; it is the public that have suffered by them. In many cases the landlords profit by them. In some of the cases I allude to the farms were let at higher rents. On some estates that has not taken place, because the tenants are very carefully selected. I should say that the proprietors benefited in all the six cases I have mentioned. I know an estate in Kincardineshire at present, where good substantial tenants, possessed of capital, are not getting their farms in consequence of the exorbitant rents asked by the proprietors. There is an estate in my neighbourhood where tenants possessed of capital to the amount of £50,000 are leaving just now, or have left within the last three or four years. Strangers are getting these farms. Men of capital are not giving the exorbitant rents which the proprietors ask, in consequence of the security which the law of hypothec affords them, and they are taking men of inferior capital. Notwithstanding the warnings which proprietors have got, I think these cases are likely to occur again if the law is continued. *Q.* Suppose that does not prevail in Scotland generally, how do you account for its existence in Forfarshire and Kincardineshire?—*A.* I cannot tell. I may state that, within the last twenty years, there has been a great change of tenants in my neighbourhood. In the parish of Stracathro alone there is not a tenant, or the representative of a tenant, with two exceptions, farming now, who was there twenty years ago.

To Mr Fleming.—I don't say that that would have been a bad thing if the new tenants had had capital and skill.

To the Chairman.—I don't say the tenants have less skill, but I don't think there is the same capital among the farmers that there was twenty years ago on many estates. I don't think there is more skill, but I think there is as much.

To Mr Murray.—I don't think the alteration of the law which I advocate would make a still greater change of tenants,—rather the opposite. Men possessed of means and skill would be continued in their farms, and they would not be exposed to competition with men who have no capital. On many of the estates where there have been bankrupt tenants, I think it is very likely that, if the law were abolished, rents would be made forehand; but where there has been little change among tenants, and confidence between the parties, I don't think any change would be made in regard to the payment of rents.

To the Chairman.—In the districts where there have been so many changes of tenants, there have been changes of proprietors; and that has partly to do with what I have stated. In some cases the proprietors have bought the properties to farm for themselves, and in that case the tenants were obliged to leave. *Q.* Independent of that, has a change of proprietors some effect in operating a change of tenantry,—I mean proprietors coming in who have not much knowledge of the value of land?—*A.* I could not say that it has.

To Mr Fleming.—I don't think it has arisen from a system of accommodation bills; because, if these men had not got the farms, they would not have required accommodation bills. In one case the failure arose from the tenant becoming security for another; but that was not the case with them all.

To the Chairman.—I advocate the total abolition of the law of hypothec, but I would reserve the rights of parties under existing leases. I don't see how the law could be modified. *Q.* Would you destroy the preference that a heritable creditor has over a moveable creditor?—*A.* He has his bond. He has no law to protect him.

To Mr Fleming.—I would allow the heritable creditor to have his preferable right where he has a bond. *Q.* Would you abolish his preference in regard to the moveables on the property?—*A.* Yes.

To Mr Murray.—I am not acquainted with urban hypothec. If a landlord has a preferable right to the furniture in a house for his rent, I would abolish that.

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To Mr Fleming.—I do not know of many cases where proprietors have demanded a second payment of grain. I know two or three instances where that has been threatened; but, when the tenant's estate was wound up, it was found that there was as much as paid the proprietor, and therefore it was not followed out.

To Mr Murray.—I do not know any case where the price has been paid twice for grain in my neighbourhood; but I know a case where a cattle-dealer, who took two grass parks, had to pay for them over again. His stock was sequestrated, and was not allowed to be taken away till he paid the rent over again, though he had paid it to the tenant. I don't know if the tenant was bound to put his own stock on the farm. I know another case of the same sort, where a cattle-dealer had taken turnips for his stock. He paid the tenant, and a claim was made by the factor on the estate for repayment. He had not to pay the second time, but he guaranteed that he would do so, if there was not enough on the farm to pay the landlord.

To the Lord Provost.—The turnips were eaten on the land.

To Mr Hope.—I have heard of a case as regards grain, but it is not settled yet. A grain merchant bought a parcel of oats from a tenant, and paid them, and the factor wrote him, holding him liable for repayment, the tenant having failed in the meantime. That case is still pending, and whether he will have to pay depends on there being enough on the farm to satisfy the proprietor.

To Mr Murray.—The sale was made before sequestration.

To the Lord Provost.—The payment was also made before sequestration.

To Mr Fleming.—There was another case of a sequestration, where a cattle-dealer had taken turnips on a farm and stocked them. He granted his bill for them at Candlemas to the tenant. A short time after, the tenant was sequestrated, and the proprietor sequestrated the whole of the stock belonging to the cattle-dealer on the farm, and would not allow him to take away a single beast for ten weeks, till he was satisfied that there was plenty on the farm for his claim. That was a great hardship on the dealer, because he had no opportunity of taking advantage of the markets. It is the liability to that kind of thing that creates the hardship.

To Mr Murray.—I am not aware that the dealer's stock was not liable for more than the price of the turnips. I believe the stock was worth £1000, and the two years' rent would not have come to £800. I don't know what was the price of the turnips; it would be below £300. The factor in that case was a lawyer.

To Mr Carnegie.—The general feeling among the farmers in my district is that the law of hypothec should be abolished. There was a meeting of farmers at Stonehaven last year, which unanimously passed resolutions in favour of the abolition.

To Mr Murray.—The general feeling of farmers is that farms are too high rented. I don't think that the exorbitant rents which have been promised would be given for land, if the law were abolished; but my opinion is that the land would still be fairly rented. There is plenty of capital, and there are plenty of good men to take the farms.

To the Chairman.—I think land is too high rented at present.

To Mr M'Lagan.—These high rents have arisen partly from the law of hypothec.

To Mr Carnegie.—The failures which I have mentioned have shaken the confidence of the public in the solvency of farmers as a body. I have had several conversations with bankers on the subject, and they tell me that they have instructions to be very cautious how they give credit to farmers.

To Mr Fleming.—Bankers run more risk with farmers than with persons in other trades, because, the proprietor having his right of hypothec, there is often a very small dividend left.

To the Chairman.—I have no doubt bankers always take care to get two or three cautioners; but I think they would be more liberal to farmers if the law were abolished. Taking into account the quality of the land and the climate, I think rents are higher in Forfarshire and Kincardineshire than they are in Scotland generally.

To Mr Murray.—I don't think the tenants live more expensively in that district.

To the Lord Provost.—In the cases of the six failures which I have men-

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tioned, the dividends varied from 10d. to 4s. I think all sequestrations should be published.

To the Chairman.—*Q.* I presume the numerous signatures to the petition got up at Stonehaven may be attributed to rents in Kincardineshire being considered to be too high?—*A.* They may be attributed to a general feeling against the law,—a feeling that it had been the means of forcing up rents.

To Mr Fleming.—I don't know that failures among farmers are more numerous than among mercantile classes; but they have been far more numerous in my district for the last five or six years than they were before.

To the Chairman.—*Q.* How do you attribute the greater number of failures in the last few years to the law of hypothec, when the law of hypothec has existed for hundreds of years?—*A.* Proprietors, I suppose, have been taking more advantage of the law, and men have got into farms who would not have been taken but for the law. They have offered too high rents, and that has been the cause of the failures.

To Mr Hope.—The quantity of manures and other articles, now used by farmers, forces them to deal with parties whom they did not formerly deal with; and it requires more capital now to carry on a farm than it did twenty years ago, when a farmer had no manure accounts or drainage bills to pay.

Wednesday, March 1, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE.	MR HOPE.
MR MURRAY.	MR M'LAGAN.
MR FLEMING.	MR CURROR.

(86.) REV. HARRY STUART.

Rev. Harry Stuart.

To the Chairman.—I am parish minister of Oathlaw, Forfarshire, and have been so twenty-eight years. I have devoted my attention very much to the interests of the agricultural classes. About twelve years ago I wrote on the social condition of the agricultural labourers, with a view to its improvement, and I then made inquiries as to their condition over the whole country. I visited most of the counties in Scotland, and had conversations with landlords, tenants, and labourers, and especially with the smaller tenants. I am honorary secretary of the Association for the Improvement of the Dwellings of the Labouring Classes. My parish is a small one, and purely agricultural. The population is 400. There are about two dozen occupiers of land in it, whose rents vary from £400 to £6. There are only seven two-horse farmers, and about as many crofters who don't keep horses. None of them pay a rent till they reap a crop. I never let my glebe, but I never farmed it myself. I employ a small farmer beside me who has not full work for two horses, and he has farmed it for twenty years. He was bred a joiner; but on his father's death he took his farm, which was in a wretched condition, and everybody thought he could do nothing with it, but he now raises the heaviest crops in the parish, I believe. I had a note from a commissioner on a large estate some years ago, in which he stated that blacksmiths, joiners, and tradesmen made the best farmers for these small possessions. All the two-horse farmers have been successful, and are in a prosperous state. I am decidedly of opinion that it is desirable, for the general social and agricultural position of the country, that small farmers should be encouraged. The Poor Law Commission got abundant evidence as to that twenty-two years ago. When I made my inquiries twelve years ago, I found that the universal complaint on the part of the smaller class of farm-servants was, that they had no prospect of rising. I found that in East Lothian, for example, they said they could not look forward to any way of doing of their own; and that they were obliged to keep their sons at home to be bondagers when they would rather go

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to a trade or emigrate, to save them from taking in persons whom they knew nothing about. In my county it is a universal complaint by these people that they can look to nothing better; hence they emigrate. Almost every boy, that gets a good education at the country school, either emigrates or goes to learn a trade. In the county of Forfar there are few small farms, except in Glenisla and Cortachy and the uplands, but not on the sea-coast. I would deprecate any change in the law of hypothec, if it had any effect in preventing the well-doing farm-labourers from getting a small farm or croft, and rising to a larger farm; and I think the abolition of the law would have that effect. It would naturally lead to proprietors insisting on an earlier payment of their rents; and, if fore-rents were introduced, I am quite sure, from all the inquiries I have made, and from all I have heard, that it would have a prodigious effect in keeping down that class. They could not pay fore-rent. In speaking to them about a farm-servant starting on a small farm, they always concluded by saying, 'You see he has not to pay a rent till he threshes it out of his first crop.' A two-horse farmer and his wife are little better than slaves; but they feel that they have a place of their own for life, and they make great struggles to educate their families. When landlords take a personal interest, as most of them do, in their tenantry, they seem always most anxious to have good tenants. Factors may not always be so careful; but all landlords and factors, that I have come in contact with, seem anxious to get tenants of skill and capital. I think the abolition of the law of hypothec would tend to interfere with the friendly feeling which exists between landlord and tenant; because landlords would have to look much more sharply after their rents, and come down more quickly on their tenants, if other creditors had an equal right. And that would tell on farm-servants in this way,—that, if the tenant knows that he must go out at the end of his lease, and that the farm will be put up to public competition, he cannot be so indulgent and friendly to his servants. So far as I see, there is not much free capital among farmers. A farmer can only turn over his capital once a year; whereas, in other trades, success depends on quick returns. *Q.* Do you think the abolition of the law would be advantageous to farmers in the way of improving their credit with banks and others?—*A.* Some young farmers seem to think that they would get more credit; but the old experienced farmers have said to me often, that it was not a good thing for young men to be able to borrow money very easily, because it enables them to get many things which they could well do without; and a country banker told me thirty-five years ago, that the pushing of banking into country districts would one day injure farmers very much, by giving them too great facilities for credit. I remember when farmers used to bank with their landlords, but several of these banks failed, and I believe that has been given up; and now farmers don't care about their landlords knowing what they are making. I have spoken to a great many farmers in my neighbourhood on the effect of the present law. The small farmers I have spoken to are for leaving things as they are. The older farmers say it would be well enough, if the landlord could not follow the crop after it was sold by sample in a market; and one or two young farmers think it should be abolished altogether, as they would get greater facilities with the banks. Some of them say that five years of the hypothec might be enough till a man was tried. But with reference to the small farmers, my impression is, and their own impression seems to be, that the law was a great boon to them, inasmuch as they could get a crop before they paid their rent. My impression is, that any objection stated to the preference given to the landlord in the shape of hypothec might be stated with equal force with reference to other preferences—heritable bonds, for example. There have been a good many sequestrations lately in Forfarshire, but till of late I never heard of a sequestration, and I never heard of the law of hypothec till about two years ago.

To Mr Carnegie.—I have known cases where farmers have lost their whole capital by the failure of their sons.

To Mr Hope.—The landlords whom I know in my neighbourhood rarely put up their farms to competition. They prefer their old tenants, or some of their own people. The farms taken some twelve years ago are said to be fairly rented, but those taken five or six years ago are said to be too high rented, because farming had got into an unnatural and excited state. Potatoes had got so high, that they seemed to put up rents more than anything else. I should think farmers used to be, and still are, less likely to fail than other trading classes of the community. *Q.* Does not your evidence go to this, that you would only

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object to the abolition of the law if it was to lead to fore-rents?—*A.* If it was to compel small farmers, entering on their first or even their second lease of nineteen years, to pay fore-rents, I would object to it, because it would hinder many a well-doing man from being a farmer at all. He would not have means enough to start; but, by getting their first crop without paying rent, they get on quite well after. My impression is that, if the law were abolished, landlords would require to look more sharply after their tenants. It is difficult often for landlords to find out exactly the character and capital of tenants who offer for farms.

To Mr Curror.—Some tenants might be able to pay fore-rent on entering a second lease, but others would not; and but very few on entering with their first lease.

To the Chairman.—It is not for me to give an opinion as to whether the right to follow grain should be abolished, but the old and experienced farmers whom I have spoken to think that, if that part of the law were altered, there would be little to complain of, and it has occurred to me that the landlord might agree with each tenant to renounce his right by a special agreement if desired.

To Mr Curror.—I could not give an opinion as to whether sequestrations ought to be published. My opinion is that it is a very hazardous thing to hurt a tenant's credit. I think one great objection to altering the law of hypothec would be the difficulty of getting it into working order. There would be irritating clauses put into leases, and various questions would have to be decided in our courts of law, and many tenants would be ruined in that way.

To Mr M'Lagan.—My opinion is, that it is quite fair and just that no rent should be paid till the crop is reaped, and that principle is acted on in commercial dealings. When a traveller sells goods to a shopkeeper, he gives him three or six months' credit, so that he may have time to dispose of them before he pays for them. I think it would injure small farmers and well-doing labourers to pay fore-rents. I do not know any case where a landlord has given indulgence to a tenant, and other creditors have lost in consequence. I know one case where a landlord refused to take advantage of the law, and ranked with the other creditors; and I have known various cases, where landlords lost their rent, and did not put the law in force. I am not personally aware that there have been many uncalled-for changes of tenants in Forfarshire. I think the intelligent character of farm-servants has very much improved within the last thirty years.

To Mr Fleming.—The tenantry in Forfarshire are also improving in education and skill. Since I have been there, there has been a great difference. I never heard them complain of want of credit. I have heard a good many rumours about accommodation bills, and, on speaking to bankers on the subject, they blame the competition which exists among banks for business.

(87.) Mr JOHN GARLAND.

John Garland.

To the Chairman.—I am tenant of Cairnton, Kincardineshire. My farm extends to 600 imperial acres, and the rent is £900. I have been a farmer forty-five years, always in Cairnton and the neighbouring farm. My term of entry is Martinmas to the whole land, and the first rent is payable at Candlemas fifteen months after. That is the general term upon that estate and on all the estates round about. I have experienced no inconvenience either directly or indirectly from the existence of the law of hypothec; and none of the farmers in my neighbourhood have done so, so far as I have seen. There has been a great feeling got up against it for a few years back, but only within a few years. There was a movement about thirty-four years ago, but it died out, and we heard nothing of it till within the last few years. I believe the idea is that it has been raising the rent of land. I don't think that is a well-founded idea. Some of the farmers think that, if there was no law of hypothec, there would be fewer offerers for farms, and that the rent would be less; but I don't think that would be the case. There are not now so many offerers as there were, but still there are a good many. We have had a good many of late coming from other professions to take farms—railway people and merchants. They have turned out rather the reverse of successful, but some of them have done very well. I don't think that the abolition of the law would diminish competition, because I have no doubt landlords would insist on forehanded rents, which of course would

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reduce the number of people able to offer for large farms or for farms the size of mine. It would diminish competition for farms of that size, but it would make people who hold these farms take smaller farms, and increase the number of competitors for them. I think it would diminish competition for large farms. Some of those who are in favour of the abolition of the law in my district are large farmers, and some small farmers. It is the small farmers that I think are mistaken, in imagining that its abolition would diminish competition. I think the large farmers are right in believing that it would. I think it is a question very much between the large and the small farmers; but I don't think its abolition would improve any of them, because in a bad season a proprietor would insist on his rents more than he does at present. He can allow them to lie back at present, but he could not do that if the law were abolished. I think all tenants would suffer in that way. I cannot see that there is any hardship in the present state of the law to persons who deal with tenants. In my district there has been no hardship. On the Arbuthnot estate, in the management of which I have assisted for twenty-four years, there has been only one sequestration during that time, so that there has been no hardship on that estate, and few have gone away that were not able to pay in full. In the one case to which I have alluded, I believe nobody suffered but the proprietor himself. He allowed the tenant to get too far back, and lost his right of hypothec. Sequestrations are very uncommon in my neighbourhood. *Q.* Do you think the tenants in Kincardineshire are in a prosperous condition generally?—*A.* They were, but I suspect they are not quite so well just now; they were doing well before these two or three years. Even with these two or three bad years, the sequestrations have not been numerous. There is just one modification in the law which I think would be an improvement, namely, as to following grain. I think sale by sample should have the same privilege as sale in bulk. If it is a *bonâ fide* sale, I see no objection to grain being openly sold on the farm; but if it was done in a quiet way, so that no person should know, I don't think it should be allowed. It should be a *bonâ fide* sale, completed by delivery and payment of the price. I never knew a case in Kincardineshire in which the power to follow grain has been exercised. I think, if the landlord was obliged to sequestrate for each half-year's rent, it would be very injurious to tenants, especially in such a year as this. The proprietor would be obliged to sequestrate, without having it in his power to give them a little indulgence in a bad year. I don't think there could be any harm in publishing sequestrations, although, when a man is sequestrated, it is soon known all over the district. The tenantry in my district have greatly improved within the last twenty years. There are not many of them in my neighbourhood who have come from other professions, still there are a few. One of them is a railway contractor, and he is now doing well as a farmer. We never let any of our farms without making inquiry as to the tenants.

To Mr M'Lagan.—The competition for farms in Kincardineshire has greatly diminished latterly. The cause of that is the fall in grain and the great fall in potatoes; but far too high rents were given. I cannot see how the law of hypothec has had anything to do with the increase or diminution of rents.

To Mr Hope.—The rents on the estate which I manage were very well paid till the two last collections, at which there were some little arrears, but these will all be paid in a month or two. In the case of the only sequestration which we have had in twenty-four years, so far as I know, the tenant's creditors were paid in full, but the landlord lost money. He would not allow his name to be put in as a creditor. If tenants leave, our farms are advertised, but not if the tenant chooses to remain. That has always been the rule. I don't recollect at this moment any of the farms on which there has been a number of tenants within the last few years. There is one on the Arbuthnot estate, on which there have been three tenants within the last seven years. One of them died, and the family could not keep the farm; and another gave up, but paid everything. The one that died had it only eighteen months, and the one before him only two years. I don't know any other farms on the estate in the same position.

To Mr Carnegie.—If the law were abolished, I think the larger tenants would be obliged to take smaller farms, and that would have a tendency to split the large farms into smaller ones. *Q.* With regard to turnips that have been let for feeding sheep, and which have been partly consumed and the price paid, would you protect the owner of the sheep, in regard to the turnips consumed, in the same way that you would protect sale by sample against the power of the

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landlord to follow?—*A.* It is a hard case, but I don't think there should be any protection there. The proper course is, not to pay till the turnips are all consumed. In many cases, I believe, the tenant is paid before the turnips are consumed.

To Mr Curror.—I have known cases in which persons who had their sheep on the farm in that way did not know the condition of the tenant.

To Mr Hope.—I think fore-renting would at first reduce the rent of land; but on the Arbuthnot estate there are three-fourths of the tenants who could not pay fore-rent, and I think the landlord would not be safe without it. *Q.* Do you think you run any great risk when you have only had one sequestration in twenty-four years?—*A.* We don't know what may happen now when the rents are so high. The rents have risen tremendously within ten years.

To Mr Curror.—I consider that a few of the farms which were let within the last three years are too high rented. There was immense competition for them, and they were all let to farmers well recommended. On one small estate belonging to the same proprietor on the coast, all the tenants were changed by deaths and by other parties taking the farms, and the rise in the rents was tremendous.

To Mr M'Lagan.—The highest offers were not taken.

To Mr Curror.—There were four tenants on that small estate, and the rents were more than doubled. They were too cheap before, but they are too dear now.

To Mr M'Lagan.—The best offerers were selected.

To Mr Curror.—I think tenants with the smallest capital very often offer the highest rent; but we never accept them if we know that. It is in consequence of the farms being back-rented that they can offer high rents.

To Mr Hope.—All the four farms which I have mentioned were advertised. Two of the tenants died, and the other two did not take their farms again. There were as many as fifteen offerers for one of the farms.

To Mr Curror.—One of the farms was 160 imperial acres, and the rest were smaller. The highest rent is about £3, 10s. the imperial acre. It is very good land.

(88.) Mr ROBERT WALKER.

Robert Walker.

To the Chairman.—I am tenant of Portlethen, Kincardineshire. I have been thirty-nine years farming on my own account, and I was a few years manager of my father's farm before that. My farm extends to 750 imperial acres, and my rent is £960, without public burdens. I am extensively engaged as a breeder of stock. A small portion of my farm is pasture land, but the greater portion is arable. I am extensively engaged in advising as to the management of estates. I was agent for Mr Ross of Netherley, and I am still factor on a few small estates in my own neighbourhood. I have been a land-valuator for about thirty years, and have advised as to improvements. I know the agricultural class very well in the counties of Kincardine, Aberdeen, Banff, Moray, Inverness, Ross, and part of Caithness. I know the opinions of a good many farmers, large and small, upon the subject of the law of hypothec. The general feeling of the ordinary and smaller class is in favour of the law. A few of the larger tenants would like it abolished. I suppose they think it would diminish competition for the larger farms, and enable them to get the land cheaper, if forehand rent was exacted. I cannot see that any proprietor would give away his land for nineteen years without security. If the law were abolished, I think there would be forehand rents. But for the law of hypothec, I would never have been able to get so much land as I have. *Q.* Are the smaller tenants in favour of maintaining the law?—*A.* Yes, if you go down to farm-servants. Their only inducement is to work as long as they are able, and to make as much as put them into a small farm. A man between forty and fifty is not able to work so hard as a farm-servant, and we don't like to keep them when they cannot do their duty. They try to make as much before that as will put them into a croft or small farm. If forehand rents were exacted, they would never be able to get into crofts or small farms. Some of them would be put on the parish, and others would emigrate. When my father died, I was left with his farm, and I had enough to do to manage it; but, by having backhand rent to pay, I was enabled to take 100 acres more. If there had been no law of hypothec, and I had been called on to pay forehand rent, I don't think I would have had half the quantity of land I have now. I

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am quite sure of that. I think there are similar cases in my neighbourhood, and that class of men are the best improvers of the land we have. There is a great deal of uncultivated land in the district, and they improve it, and add to the size of their farms. In that way they keep themselves very respectable, and train up their children to go into service, and then they are able to take small farms. They are a most useful class; in fact, I think they are the bone and sinew of our country. My opinion is, that the abolition of the law, followed as it must be by fore-renting, would be very disastrous to the agricultural interests of our district, and to the interests of every district where I have been in the practice of valuing land. All the most intelligent tenants that I have spoken to on the subject are in favour of maintaining the law. I think it would be a bad thing to compel landlords to sequestrate for each half-year's rent as it fell due. Sequestrations have not been numerous in my district. I have only known of three or four in forty years. In one of these cases the proprietor was the only sufferer. In that time the tenant was sixteen times sequestrated in fourteen years that he was on the farm. He got sureties who paid the rent latterly.

To Mr M'Lagan.—In valuing land I have not been guided by what it was bringing when publicly exposed, but just what I considered times and prices would afford. A good many farms have been let above my valuation, but most of them have been let within a few pounds of it. The highest offerer was not always taken. I have been much consulted as to the character of tenants offering for farms, and I know that proprietors make a practice of inquiring at their bankers, though they are sometimes misled. Where I act as factor, I have full power to let the farms under my charge. I don't advertise the farms, but I value them, and, if the tenant is worth keeping, he gets an offer of the farm at my valuation; if not, I advertise it, and I have always got more than my value; but I never would take what I was sure would not be paid. If I had had to pay fore-rent when I commenced farming, I would not have got on so well. I had no friend to support me, and I would not have liked to borrow money. If I were letting a farm, and the law of hypothec were abolished, I would not consider fore-rent a sufficient security to the landlord for a lease of nineteen years. I would take a bond over the moveables on the estate—household furniture, farming utensils, and stock. If that were not legal, I would exact personal security. I should not like to see the system of cautionry adopted. However good a tenant may be just now, he may be bad enough in a few years—misfortunes may come over him, or he may die, and the son may not be so good as the father. Banks often apply to me as to my neighbours, but they never say anything about the law of hypothec. Their inquiry is whether the man is worthy of credit; and I don't think that would be different supposing the law were abolished. My opinion is, that credit of a rent of £1000 for twelve months without interest, is better than a loan of £1000 from a bank. I don't think any interest is paid to the landlord for back-rent. I know two properties in my neighbourhood that are fore-rented, and the rents are equally as high as any others in the neighbourhood, and have been for forty years; and there is this peculiarity about them,—that not one of the tenants has put in a drain or laid out a shilling upon them; anything that has been done has been done at the expense of the proprietor. These tenants were pinched of their capital to the extent of a year's rent, and there they are as they were fifty years ago. I never considered that I occupied a degraded position under the law of hypothec. I was always able to pay everybody. I don't think it would be advisable to shorten the period within which the landlord can sequestrate; it would be taking the tenant sharp. Six weeks or two months might be a great matter with reference to a market, and tenants might be required to sell their stock at a disadvantage. *Q.* Do you think it would be any hardship on the landlord to be compelled to sequestrate within one month?—*A.* I don't say it would be a great hardship, because I don't think he would sequestrate a good tenant. I would object to the landlord being obliged to sequestrate for each half-year's rent before the next half-year's became due. I approve of the publication of sequestrations.

To Mr Fleming.—I am aware that the landlord is entitled to sequestrate for each half-year's rent; but I think it would be a hardship upon the tenant to compel him to realize his means at a disadvantage. I don't think the law of hypothec is against the public interest; it is not against manure merchants or lime merchants. I have been a director of a company which deals in manures, etc., for thirty years. Their accounts for farmers alone are £88,000 to £90,000

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a year, and I never understood that the law of hypothec was against us. *Q.* Would your company not be more secure, if they had a certainty that a tenant was never in arrear to a greater extent than half a year's rent?—*A.* I don't know. I think back-rent is better for us, because manures should be paid before the rent is exacted. We could sell on three months' credit; the farmers get their manures in March, the rent is due at Martinmas, and they should have the manure paid by the middle of summer. *Q.* Why should the manure be paid before the produce is reaped?—*A.* It is a special bargain. *Q.* Why should not the landlord make a similar bargain?—*A.* If the manure merchant were to supply a farmer for nineteen years with manure, and bound himself to do so, I think he should have the same security as the proprietor.

To the Chairman.—I don't approve of the landlord having the power to follow grain after a *bonâ fide* sale. I think the sample market should come under the same rule as the stock market. I think even a private sale should be protected, if it was not collusive for the purpose of diverting the property from other creditors. I have no objection to that part of the law being altered, because I never saw it enforced.

To Mr Fleming.—It is easily known when a man is selling off his stock privately to defeat his creditors, and a man who bought from him in these circumstances should be held as liable as the farmer who sold.

To Mr M'Lagan.—The company of which I am a director is the Aberdeen Lime Company. In the last three years that company lost £500 out of £90,000. Where agents are cautious, there is not so much loss; where they are paid a per-centage upon their sales, they don't look much to payment by the customers.

To the Chairman.—The losses that the manure companies sustain are partly attributable to the imprudence of their agents. There is no difficulty in knowing the circumstances of a tenant, because an agent has only to ask a respectable customer in the neighbourhood. We have not had many losses.

To Mr M'Lagan.—I don't know that we ever lost by selling lime to farmers; and it could not have been on the ground when sequestration was used, because we would not prosecute them in the first year.

To Mr Hope.—I have been a breeder of stock for forty years and upwards, a valuator of land for thirty years, and a factor for fifteen or sixteen years. I was valuing land, though not to a great extent, before I took my second farm. The rents generally are very well paid in Kincardineshire. I think fore-rents would be necessary if the law were abolished, because I don't see what other security landlords would have for their property. I don't think there is any difficulty in a landlord finding out the circumstances of a tenant if he applies to the proper party, though he may sometimes be deceived. If a manure merchant has a prudent agent, he need have no difficulty in finding out whether a tenant is trustworthy; in fact, some agents scarcely ever lose anything at all. *Q.* Do you think that fore-rents would not reduce rents?—*A.* The only examples of fore-rents that I know are on the two properties that I have mentioned. They have had a long trial, and they are as high as any in the neighbourhood. I think back-rents tend more to the improvement of agriculture. *Q.* Don't farmers generally take as much land as they have capital for?—*A.* Yes; but, if the law were abolished, they would not be able to take so much land. *Q.* Do you think that if crofters did not become farmers they would go on the parish?—*A.* Farm-servants are able to do their work to a certain age; but they have no inducement to be servants, unless they expect some day to get a place of their own, and they could not expect to get that if they had to pay fore-rent. *Q.* Do you think the tendency would be to do away with small farms, if the law were abolished?—*A.* No. I think the holders of large farms would descend to smaller farms till the smaller tenants were put out; and if proprietors could not get their large farms let, they would divide them. I am certain that, if fore-rents were exacted, that would be the result. I would not think it degrading to be asked to pay forehand rent, or to show my receipt for rent paid.

To Mr Curror.—There is always more competition for the smaller farms in Kincardineshire than for the large ones.

To Mr Carnegie.—On the two estates which are fore-rented in my neighbourhood, the farms are small; the tenants have one or two pairs of horses. There are crofters on these estates too, and they have come from the labouring class. A great many of them have succeeded to their fathers, and they are practical men. There is no difficulty in getting tenants for these farms when a lease is out, but

there are very few changes. Many of them have been fifty years there, and no improvements have been made on the farms, except by the proprietor. Robert Walker.

To Mr Curror.—There would be no difficulty in letting farms at fore-rents, but they would require to get another class of tenants. Even the poorest crofters are in a thriving condition, and the pretty large crofters are the most useful men we have. They bring up their children as labourers, and then they succeed to small farms.

To Mr Curror.—On these fore-rented farms, some of the tenants pay a percentage for what the landlord lays out.

To Mr Hope.—These tenants are industrious enough, but any small capital they had was always paid in fore-rent to their proprietor. Their capital was out of their hands for nineteen years, and the proprietor had it instead of the tenant; whereas if the tenants had had it, and improved their farms with it, they would have got it back in a few years. *Q.* Had they taken too much land for their capital?—*A.* Every farmer takes as much land as he can for his capital, but they would have been able to take more if they had had back-rents.

To the Chairman.—I have no doubt it is the fact that their having to pay fore-rents prevented them from improving their land, and some of them said so to me. If I were fore-rented, I don't think I would pay for improvements; I would leave it to the laird.

(89.) Mr WILLIAM WARRACK.

To the Chairman.—I am tenant of Newmill, Aberdeenshire. My farm is ninety acres in extent, and my rent is £100. I am also local factor for Sir William Forbes of Craigievar, and have been so for fifteen years. I have been a farmer for thirty-five years. I had a smaller farm in Aberdeenshire before my present one. After I became a factor, I had no farm till five years ago. I have experienced no inconvenience from the law of hypothec. I consider it is a great advantage to tenants, by deferring their rents. It enables them to enter on a farm with less capital than they would otherwise require, and to go on farming more successfully than they could do, if their pockets were emptied by paying forehand rents. If the law were abolished, I don't see any other way of securing the landlord, except by having fore-rents,—I mean rent paid before the crop is reaped. There are about 160 tenants on Sir William Forbes's estate—20 below £5, 58 between £5 and £20, and 81 between £20 and £390. They are generally very prosperous, and have been a long time on their possessions,—a number of them for generations. There have been no sequestrations on the estate during my factorship; the rents have been very regularly paid. The periods of entry to some of the farms are Whitsunday to the grass and turnip land, and Martinmas to the arable land; and to some at Martinmas to the whole farm. The rent is not payable for fifteen months after, if they enter at Martinmas; and with the Whitsunday entry they don't pay till Candlemas, nearly two years after. If the law were abolished, and fore-rents introduced, I think a great number of the tenantry would have to give up their farms, and become labourers or emigrate. I don't think they could pay fore-rents. I never had any conversation with them on the subject of the law of hypothec. I never heard them complain of it. In my district of the country generally, I very seldom hear any complaints of the law. I have heard a few individuals, within the last twelve months, complain of it,—principally manure merchants and grain merchants, and some of the farmers have joined them; but very few. I believe they say that it raises the rents. I do not agree with them in thinking so. If the law were abolished, I think there would still be competition for land. My opinion is, that the abolition of the law, followed by fore-rents, would have a bad effect on the whole of our tenants. I am well acquainted with the position of agriculture in Aberdeenshire generally. There are many men now in the position of good farmers in the country who have risen from small beginnings. The length of credit, that the landlord is able to give them, has helped them to get into farms that they would not have been able to get into, but for the law of hypothec. I am decidedly of opinion that the law, in its principal features, should be maintained. I cannot suggest any amendments. I never knew any cases of the landlord following grain after it had been *bonâ fide* sold. I would not be much against abolishing that part of the law, and making sales by sample,—or even a William Warrack.

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sale on the premises, if it were a *bonâ fide* sale, followed by delivery and payment of the price,—equivalent to sale in bulk. I think the effect of the abolition of the law might be to throw the small farmers out, and to lower others down a step, so that there would be a deficiency of tenants for the larger farms. I am not aware that there have been any considerable changes of tenants in Aberdeenshire generally. I think they have been there for a considerable time. When farms come out of lease, we never advertise them, unless the tenant in possession is not to be a candidate. I don't think advertising is common in other parts of Aberdeenshire. When a new tenant is taken, I don't think he is very often from another profession; that may occur now and then, but, so far as my experience goes, they have always been farmers who have offered.

To Mr Fleming.—When one of our leases expires, I value the farm, and offer it to the sitting tenant. If he did not give the rent, we might advertise it, but we have never had a case of that kind. I do not know any estates in my neighbourhood where the fore-renting system is in force. The capital required by a tenant-farmer in our district to stock his farm properly is from £8 to £10 an acre. I think it would be impossible for the present farmers to pay forehand rents.

To Mr M'Lagan.—When our farms are out of lease, they are generally valued by a practical valuator, but I sometimes do it myself. I have always put on what I thought a fair value, without reference to the competition. I think, without a due proportion of small farms, there would be a want of labourers. They are occupied generally by small farmers, who have families of sons and daughters, who go into service and labour in the fields on the larger farms. These small farmers pay their rent very regularly, and are in comfortable circumstances. I think it would be a great hardship on them to ask them to pay fore-rents. They would have difficulty in getting on if they had to do so. Their families are the best class of servants in the neighbourhood. The smallest farms are occupied by men who have been servants or labourers themselves for a time, and their sons may have been out as servants, and then succeeded their fathers, and we generally prefer them as tenants when their fathers die. I am not aware of there being many accommodation bills going among the farmers in my district. I would not like to increase the facilities for farmers getting accommodation from banks. *Q.* Do you think that, by abolishing the law of hypothec, these facilities would be increased?—*A.* I don't think it would make much difference. Bankers would require the same security as at present. *Q.* Would you be satisfied, as a factor, with fore-renting as a security for the rent, if the law were abolished?—*A.* I think, if the tenants paid a whole year's rent in advance before they reaped the crop, that would be sufficient. The tenants in my district, on the whole, are in comfortable circumstances, though not very flush of cash, but they pay their rents regularly. I don't think they have as much money by them as would enable them to pay another rent. They have to bring up their families, and educate their sons, so as to be able to succeed them.

To the Chairman.—I would not approve of an alteration in the law, requiring the landlord to sequestrate for each half-year's rent as it fell due, or lose his preference. I think that would be severe on the tenants. I would have no objection to sequestrations being published.

To Mr Curror.—I have never used sequestration during the time I have been factor; but the knowledge, that there is such a law for the protection of the landlord, prevents the necessity for enforcing it. *Q.* If some of these tenants have been for generations on the property, would the abolition of the law make it necessary to change the system of managing these farms?—*A.* If they were to go on prosperously, I suppose it would make no difference. The steadings on the farms are generally good. They are partly kept up by the landlord, and partly by the tenant. There has been no diminution in the number of small tenants. We have not been adding farm to farm.

To Mr Hope.—I don't think the average rent per acre on Craigievar estate is above 18s. per acre. I think there is much less chance of bankruptcy among farmers than any other class of the community.

Mr WILLIAM HOPE (*re-examined*).*

William Hope.

To Mr Hope.—*Q.* When you were examined on a former occasion, you stated

* See *ante*, p. 31.

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that you sold £190,000 worth of manures per annum; was all that sold to farmers, or was part of it sold to wholesale dealers?—*A.* I understood the question then put to me was as to the amount of manures that we sold annually, and answered it accordingly; but I have since divided the amount as correctly as possible, and find that we sell nearly three times the *quantity* wholesale that we do retail. The *tonnage*, however, does not represent the value exactly, because the goods sold wholesale are chiefly bones, ash, and manufactured manures, which, as compared with Peruvian guano and nitrate of soda, etc., are of much less money value; and hence I calculate that the money turned with farmers alone will be, say, £100,000 annually. Of that sum, as near as I can estimate, one-half, or £50,000, is sold upon credit terms. *Q.* Assuming that to be correct, what would the per-centage of loss upon farmers' bankrupt estates amount to?—*A.* Taking the per-centage of losses made with farmers, whether they have become publicly bankrupt or have made private settlements, and estimating the amount at present put down as doubtful debts, I would say that, if I add to the sum formerly stated as lost by my firm in two years, namely, £2400, the amount considered doubtful, and the realization of which is dependent upon many contingencies, it amounts to upwards of £3500 within two years, or say 3½ per cent. upon our sales to farmers. There are cases where tenants under sequestration by their landlords have good reason to expect that, with the indulgence of their creditors, they will ultimately reclaim their position, and, having every desire to give them such an opportunity, we frequently allow our accounts with them to stand over; in others, their estates are in the hands of trustees to work out their leases. In one case, where we have a considerable sum owing, the matter stands thus:—Previous to Whitsunday 1863, the tenant agreed to leave his farm, having lost a deal of money in it. He advertised a sale of his stocking, etc., and considered that when it was over he could pay all his creditors, having the growing crop to pay the landlord; but, a few days before the sale, the law-agent for the landlord intimated to the tenant, that, unless he was allowed to uplift the entire proceeds of the sale, he could not allow it to go on. The tenant had no choice, and was driven into an agreement, whereby this agent not only collected the proceeds of the sale, but got full control over the crop; and the result is that, until this day, the tenant, notwithstanding his utmost efforts, has been unable to get any settlement with this agent, and is at present—nearly two years after the date of his sale—unable to inform his creditors whether or not he can pay them anything. He states that the agent informs him that he is still due the landlord money, which, he says, is impossible, unless the landlord brings against him reductions in rent got years ago, which were given permanently, and not with the intention of being recovered at a future time. The tenant considered, previous to this, that he was in a position to pay his creditors 20s. in the pound. He left the farm, and it is relet.

To the Chairman.—We don't sell much manure through agents. If any one is to blame for making bad debts, it is principally ourselves. *Q.* You told us that you would sell cheaper if the law were abolished?—*A.* We sell cheaper for cash than for credit. I said that if we had no risks to run, such as we have under the law of hypothec, we would be able to sell at comparatively less cost. *Q.* Do you sell cheaper to landlords?—*A.* We sell cheapest to all who pay ready money, but it is seldom we are honoured with visits from landlords, and hence we have no special terms for this class of customers. *Q.* But supposing they don't pay cash?—*A.* If they don't pay cash, they get it at the credit prices. *Q.* Then it is not the law of hypothec that makes you sell dearer to tenants?—*A.* Undoubtedly. *Q.* Then why don't you sell cheaper to landlords?—*A.* At the moment I could not say we make a difference; but we sell so little to landlords, that I don't know that I could give a case where we make any difference.

To Mr Fleming.—If the law of hypothec were abolished, so that our risks were lessened, we would certainly be enabled to reduce our scale of charges. *Q.* Suppose the law were abolished, would you alter the scale of prices?—*A.* I think the tendency would be to alter it to a certain extent.

To Mr Hope.—As a class, small tenants pay very regularly indeed; one reason being, that they come to us expecting no credit, and they generally bring the money in their hand.

To Mr Fleming.—If we had the law of hypothec to protect us, I would not object to lying out of our money till the farmer's crop was reaped. We would sell universally upon credit terms, if we had the hypothec to protect us.

Monday, March 20, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE. MR M'LAGAN.
MR HOPE. MR CURROR.

(90.) MR WILLIAM KING HUNTER.

William King Hunter.

To the Chairman.—I am a bank-agent, and have been in practice as a solicitor in Dunse for about thirty-eight years. I have been pretty largely connected with matters relating to land, both for landlords and tenants—in letting of farms, in arbitrations, in trust estates, and otherwise. I am a small proprietor of land. I farmed a property of my own for about ten years, which I afterwards let at a rent of £470 a year. I have also had the practical superintendence of lands under trust. I define the law of hypothec, in an agricultural subject, as a security to the landlord over the crop of each year for the rent of that year, and over the cattle, stocking, and implements of husbandry for three months after the term for payment of rent. There are of course other rights of this nature to which I do not here allude; I mean maritime hypothecs, and others. The contract of lease is of extensive operation, and generally extends to a term of years, usually nineteen or twenty-one years, and involves interests of a very peculiar kind. It differs from ordinary contracts of copartnery, where both contracting parties have a control over the subject and capital employed, or where both have a supervision of the management. The capital employed by the contracting parties is altogether disproportionate, while the party embarking the smaller capital is entrusted with the whole control, management, and possession of the whole subject under the contract. Hence, in my view, the object of the law of hypothec is to afford protection or security to the party who has embarked the larger capital without any personal control in the management. To give an illustration of this,—take a farm rented at say £500 a year on a nineteen years' lease; the landlord puts the tenant in possession of property worth say £15,000; the tenant embarks a capital of say £1500. Now, while it is true, as has been said, that the land 'cannot run away,' it is equally true that the land and steading may be so deteriorated in a very short time as to diminish the landlord's capital to a very serious extent, besides, without the law of hypothec, the loss of rent. The landlord cannot eject the tenant until he has run two full years' rent in arrear, and the crop of the second of these years may be of small value, if the tenant chooses, either to landlord or creditors. It is true that one full year in arrear, or neglect to cultivate the farm, entitles the landlord to require security for that and the next five years, but this is easily defeated by the payment of a small sum towards the rent. I may be said to be describing an extreme position; happily I am so, but it is a protection against an extreme position that the law provides. I do not hold the landlord to be a creditor in the ordinary sense. He is a party to a contract, and the law so far protects his interest, because it is beyond his own control. If the landlord were placed in the position of an ordinary creditor, every creditor would have an advantage over him. He might seek to recover his rent like an ordinary creditor for one year; but he would have the mortification to know that the tenant could, in spite of him, take another crop out of his land, which the landlord could only share with ordinary creditors. Indeed the general creditors would have a decided interest in inducing the tenant to continue another year in possession. Unless a tenant voluntarily renounces, it is a difficult matter to eject him during the currency of a lease. A tenant lately modestly told the factor that he would renounce his lease, provided all arrears and the current rent were departed from, and this after he had stripped the farm of almost everything, and had in a great measure defeated the right of hypothec. I was agent in the case. There are other obligations in a lease besides rent, for which the landlord must rank as an ordinary creditor,—such as repairs on steading, fences, etc.; and for the deterioration of land he has no redress. I do not suppose

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any banker, merchant, tradesman, or any one else would entrust so much as a landlord does, over a nineteen years' lease, without a security equivalent to the law of hypothec. It is generally held that a reasonably taken farm should yield three rents or thereabouts, though I do not say this is always the case,—one rent for the landlord, one for the tenant for skill and remuneration for trouble and interest of capital employed, and a third for expenses. The right of hypothec, therefore, extends to only one-third part of the produce of the land,—that is, the grain and stock fed upon the land. I do not here speak of implements of husbandry, as I hold them to be exceptional. I hold, then, that if the tenant and his general creditors, with whom he deals in the ordinary course of trade, have two-thirds of the produce of the farm or even less, to meet their claims, the landlord has a legitimate right to a security over one-third of the produce of his own land, and it is generally after the other two-thirds are gone that the landlord seeks recovery of his share. But while I am thus decidedly in favour of the law of hypothec, I am equally of opinion that it is open to modification. There is scarcely any law that does not pinch in some point, and I am very clearly of opinion, that in cases of sales *in bonâ fide* there should be no power to follow the grain. If a case of collusion can be established, then I hold the right ought to exist, because I consider this to be a case of fraud, punishable even at common law. It further appears to me that the right of hypothec should be confined to the actual produce of the soil, and the cattle, horses, sheep, etc., fed from the produce of the soil. These are directly the produce of the landlord's capital, or maintained out of his capital, and the true source of security for payment of rent. I do not think that it ought to extend to the implements of husbandry and household furniture, which truly belong to the tenant's capital, but that these should be subject to servants' wages as a preferable claim. Neither do I think it ought to extend to foreign manures, or to feeding-stuffs delivered but not incorporated with the soil, or not consumed by the animals. These I hold to be fairly open to the general creditors, and to the landlord as an ordinary creditor, provided his claim under the hypothec is not fully met. If there is no stipulation in the lease as to curtain or home manure, this should be subject to hypothec. I would say there should be no alteration of the law in urban subjects, or in any other department to which the law of hypothec, lien or retention, applies. I confess I don't like innovations on a law sound in principle, but I recommend these concessions in the hope and belief that no further infringement will be attempted. This, it appears to me, would take the sting out of the law of hypothec, and place all parties on a rightful footing. I am aware that servants' wages are at present a preferable claim, and also that it is doubtful whether the landlord's hypothec extends to household furniture.

To Mr Hope.—I consider that all cattle fed on the farm, even if only brought in for a time, should be subject to the hypothec. This, of course, extends only to three months after the rent is payable.

To the Chairman.—I hold the law of hypothec to be as beneficial to the tenant as to the landlord, and to place the general creditor in a better position than in dealing with customers to whom the law does not apply. I could refer to cases where it has been of great advantage, both to the tenant and his creditors. In a recent case, where the farm was let at a remunerative rent to the tenant, and he notwithstanding became embarrassed in his circumstances to the extent of from £6000 to £7000, but for the law of hypothec there would have been a break up of the affairs, and probably not 1s. or 2s. per pound to the creditors. An arrangement was made amongst the creditors, that those who chose to accept 6s. per pound were paid this sum by the creditors who wished to carry on the farm, and under their supervision the tenant continues in the management at a salary of £100 a year. By the end of the lease these creditors have every expectation of repaying themselves the 6s. per pound advanced to the others, and meeting their own claims probably to a greater extent, as well as being remunerated for their advance and trouble. Thus the tenant is saved from destitution, and the creditors have the benefit of carrying on the farm for their own behoof, which would not have been so, if the landlord had not had the protection of the law of hypothec. In this case the law of hypothec did not debar me from giving the tenant accommodation to the amount of nearly £2000, because I just required security in the knowledge of it, and I did not lose one penny; the cautioners knew equally well that the rent was a preferable claim.

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To Mr Hope.—That case happened in Berwickshire. There was an irritancy in the lease, but the landlord did not take advantage of it.

To Mr Curror.—If the landlord had not had the security of the law of hypothec for the rent, I do not suppose he would have countenanced this arrangement.

To Mr Hope.—The rent of the farm is about £400 a year. The £2000, or nearly that sum, due me was in bills and cash-credit account, and these were paid by the cautioners.

To the Chairman.—I may advert to another case of the same kind within the last few months, where the tenant is even more favourably situated, as having arranged with his creditors. He is allowed to continue in the farm, and will, it is believed, pay the dividend to the creditors out of the profits of the farm. The debts in this case were about £12,000. But for the law of hypothec this would also have been ruinous to the tenant, and attended with a much greater loss to the creditors. To abolish the law of hypothec altogether would be attended with serious consequences. It would destroy confidence between landlord and tenant, or drive the landlord to other means of protecting himself, and to a stringency of dealing distressing to both parties. It is clear that no proprietor would entrust his property to the management of another for nineteen years without some security. To substitute fore-rent would, in my view, be manifestly unfair to the tenant. In the very nature of the contract the rent of the farm is to be paid out of the soil, and the tenant ought not to be required to pay the rent year after year out of his own pocket before it is reaped. For example, with a Martinmas entry the first rent should be payable at Martinmas the following year, by which time the tenant has reaped a grass-crop, and is in course of reaping his corn-crop. To an arable farm, I consider Martinmas to be the most suitable entry, as at that term everything may be entered to excepting turnips, and as to these provision may be made in the lease for an arrangement between the outgoing and incoming tenant. I believe some stock-farmers do not consider Martinmas to be so favourable an entry; but whatever the term of entry may be, I think the principle I have stated is sound. I repudiate the idea of fore-renting with the view of excluding competition. Some of our most distinguished agriculturists have risen from small beginnings; and a man, who has skill and capital to take a farm, should not be excluded because he cannot pay a rent in advance out of his own pocket. I could give many illustrations of persons now paying thousands a year of rent, who would never have had a farm at all if fore-rent had been demanded. I think it is very wrong, and certainly it is so amongst landlords and factors with whom I am acquainted, to impute to them carelessness or indifference in the selection of a tenant on the ground of the law of hypothec.

To Mr Hope.—I don't believe fore-rents generally could be got by landlords. A man who has £1500 may have enough to take his farm and stock it, but he may not have £500 besides to pay a fore-rent. I don't think it is unjust to a man who has that £500 besides, that the landlord should prefer the other as a tenant. I would as soon take the one as the other, if both were alike equal in skill, but not without the law of hypothec.

To Mr M'Lagan.—I would take the £1500 man, if I considered him well qualified to cultivate the farm, just as soon as the £2000 man; and I think I would do injustice to the £1500 man if I excluded him because he could not pay a fore-rent. That is supposing the law of hypothec to exist. If there was no such law, I would require some other security. I could not insist on fore-rent, because I don't think it fair or just to ask it, unless under very special circumstances. I have not considered what the security should be. It might be that landlords would only let their farms by the year. They must have something as a substitute for the law; what that should be I cannot at present say, not having considered the matter, but I apprehend something more open to objection than the law of hypothec would be introduced.

To Mr Curror.—In the first of the two cases which I have mentioned, the tenant had been in the farm about twelve years. He got an addition of four years to his lease lately, which, I understand, made the tenancy worth £2000 of advantage to him. The creditors who entered into the arrangement paid the others 6s. a pound. Fully one-half took the 6s.

To the Chairman.—I believe, both with landlord and factor, the selection of a tenant is a most anxious duty, and that their belief at the time of letting is, that there will be no occasion for the law of hypothec coming into operation. A factor on a very large estate lately observed to me that, to let a farm at a

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rack-rent, made three people miserable: first, the tenant, who could not pay it; next, the landlord, who is disappointed in not receiving it; and lastly, the factor, who shared the annoyance of both, and had the brunt of the battle to bear. That factor showed me lately twelve offers for a farm, and I pointed out a middle one as the most likely tenant, because I knew he had capital and skill. He was not within a considerable sum of the highest offerer. I had no thought of the law of hypothec at that moment. The factor had decided upon the same man. It is, indeed, not a frequent occurrence in my district, that sequestrations for rent do occur; and I never knew any case where the tenant did not admit that the circumstances rendered it necessary. It is never resorted to oppressively. I do not consider that the law of hypothec is injurious to the credit of the tenant. Every one knows he has a rent to pay, and he is dealt with accordingly. The position of farmers is generally better known, than that of those to whom the law of hypothec does not apply. I should say commercial travellers labour under much greater difficulty in their business, than tradespeople do in dealing with farmers. Everybody knows the farmer has a rent on his head, whatever more. There is much greater difficulty in knowing the position of the general trader. With the modifications I have taken the liberty to suggest, I think the law of hypothec would be free from all objection, and sound in principle. Nothing can be more reasonable than that each year's crop should be subject to the rent of that year, and to that it is strictly confined. One year's crop cannot be applied to another year's rent. Neither do I think that there should be any alteration of the three months over cattle and stock, because to shorten the period might debar a landlord from giving an indulgence, which is frequently of great advantage to the tenant, by enabling him to keep on his stock while he has turnips, and the stock is still improving. Nor do I think the period should be extended, because three months is sufficient to meet the object I have referred to.

To Mr Hope.—I think it is possible for a tenant, even by bad ploughing, not properly cleaning, and insufficient manuring, to allow the land to become seriously deteriorated; and I don't think a landlord could keep up such a surveillance as to prevent that from being done. The same remark applies to houses and fences, which I have seen handed back to the landlord in a very dilapidated state; and I think he might soon lose equal to the whole capital which the tenant has put into the farm, because, on the next lease, the farm might bring a greatly diminished rent, on account of the deterioration. I cannot say that I know any case where the landlord required to rank as a common creditor for repairs to houses and fences, but I know he has no preferable claim in regard to these. I never knew him pay himself by the law of compensation. In all leases that I have anything to do with, I take special care that no manure shall go off the farm, unless more than double the quantity, in the shape of an equivalent, is brought on.

To Mr Curror.—There is no extraordinary competition for farms in Berwickshire. For a very desirable farm lately there were twelve offerers; but I know one just now for which it is difficult to get a tenant, chiefly because of deterioration by the previous tenant. *Q.* Is it the man of large means or the man of small means who offers the highest rent?—*A.* I could not answer that question satisfactorily, because I have found it both ways. I have found the man of small means give a better rent than the man of large means, and I have generally imputed that to his being a better manager than the other. I don't think a tenant's outlay at the beginning of a lease would be sufficient security to the landlord for his rent.

To Mr M'Lagan.—In cases of farms near large towns, where the produce of the farm is sold earlier than upon other farms, I would regulate the period of paying the rent, so that the landlord's security might not be off the farm. I would make the rent payable some months sooner. I do not think that lime or tiles, or artificial manure on the ground but not applied, should be made liable to the landlord's hypothec, even though the tenant had paid for them. I think they are very much the capital of the tenant, and should be subject to his general creditors. *Q.* Might there not be a case in which the tenant had sold off his live stock, and bought and paid for manure and lime, and in that way defeated the right of the landlord?—*A.* There must be a certain watchfulness on the part of the landlord; and if he finds that being done, to defeat his right, he must deal stringently with the tenant. *Q.* Would you make the stock of others, if put on a farm to eat turnips, liable for the landlord's hypothec?—*A.* Certainly. Any one who hazards putting stock on a doubtful tenant's lands for three months

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after the rent is payable, must do so at his own risk. A tenant recently asked me if he was safe in putting some stock on another man's land. I advised him not to do so, as the man was not in good circumstances; but he did so, and his stock was sequestrated, which gave him trouble.

To the Chairman.—*Q.* Is the stock not liable only for the rent which the subtenant pays?—*A.* That is so as to grass parks, I believe; but I don't think it has been settled as to stock put on an agricultural farm.

To Mr M'Lagan.—*Q.* Is it not hard that a stranger's property should be liable to the law, whereas a tenant's property is not? A tenant may have sold his stock, and got in manure and tiles, and you do not make that liable, while you make a stranger's stock liable?—*A.* There may be reason to think that the tenant is not able to stock his own farm, and the party who stocks it for him must take the risk. The principle on which I think manure and lime should not be subject to the hypothec is, that it may be fairly called the tenant's capital, and has not got into the possession of the landlord. I think it would be very hard on the tenant, if the landlord were compelled to put his hypothec in force each half-year, or lose his right. I don't see that it would be of any advantage to the general public, and it would be very oppressive to the tenant, who would generally, by the next half-year, be able to discharge all his liabilities, which such a change might prevent him from doing. I should not like to see such a check put on a tenant at the very time when he was going to reap his crop, which would enable him to pay everything. I believe general creditors lose very little by tenants. I certainly would not approve of publishing sequestrations. They are known in the district; but, if they were published in the Mercantile Test, a man's credit would be ruined for ever. There is a good deal to be said in favour of the publication; but as it could only affect debts to be contracted, I think it would not be fair to placard the tenant as a bankrupt, when his affairs may only be temporarily embarrassed, and might be wound up by arrangement in a satisfactory way.

To the Chairman.—Sequestrations are not numerous in Berwickshire. When farms are in the market, they are generally let to practical farmers, or to men who have been so connected with agriculture that they have a good knowledge of it.

(91.) Mr THOMAS RENNIE SCOTT.

Thomas Rennie Scott.

To the Chairman.—I am factor for the Douglas estates in the county of Lanark, belonging to the Earl of Home. I was a farmer in Mid-Lothian for twenty-two years, and have been a factor in Roxburghshire and in Lanarkshire for thirty-seven years. The rental of the Douglas estates on which I am factor is £22,000; of which £20,000 is from land, and £2000 from minerals. There are farms of all sizes on these estates. There are sixty-two tenants whose rents exceed £50. The lowest rents are £10, except for crofts, and the highest are nearly £1000. I have directed my attention to the law of hypothec, and my opinion is that, while a modification of the present law is desirable, the abolition of the law would cause great confusion under existing contracts; and I cannot see any plan that could be substituted for the security of the landlord, which would so effectually answer the purpose intended, without subjecting the tenant to inconvenience.

To Mr Curror.—Even if existing contracts were left as they are, I would not approve of abolishing the law.

To the Chairman.—It could not be reasonably expected that any landlord would grant a lease of a farm without security; and no plan could be adopted by which this would be effected, which would better secure the landlord, without obliging the tenant to lay himself under obligations to friends, whom he could not refuse to accommodate under similar circumstances. The remedy suggested as a substitute for the law of hypothec, by paying a year's rent in advance, could only be carried out to a very limited extent, and so place the competition for farms in comparatively few hands; for, although I am aware that some tenants could purchase their farms, I know that many good men could not conveniently advance a year's rent. And I am doubtful if an entailed proprietor in possession could anticipate his rents in the way proposed, by taking as his security a year's rent in advance; because, if he can do this for one year, he may for nineteen, and so deprive the next heir of entail of all interest in the estate. The modifications in the law of hypothec, which I think are desirable, are the follow-

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ing:—1*st*, That all sales of grain, made either in stock or sample markets, should neither be followed nor questioned; 2*d*, that servants, carpenters, blacksmiths, saddlers, and grass-seed merchants, who have contributed to produce the crop hypothecated, should be entitled to recover from the landlord; 3*d*, that all sequestrations under the law of hypothec should be published in the *Gazette*. This is all that I consider necessary to secure the interest of the landlord, without inconvenience to the tenant, as I look on drainage, liming, manures, and feeding-stuffs as speculations, which, if allowed, would deprive a proprietor of the control over the expenditure on his estate, and introduce the long-agitated question of tenant-right. There is no such thing in practice as following grain. I have only known one such case in all my experience. I am not prepared to say that I would put private sales on the farm on the same footing as sales in market. I think they should be in market in order to their being protected.

To Mr Carnegie.—I do not include manure merchants among those who should have a preference.

To the Chairman.—I give the right to sellers of grass-seeds because their seed is in the ground, and if a new tenant comes in, the landlord gets a price from him. I would also include sellers of seed-corn.

To Mr Carnegie.—I also include implement-makers, but not makers of steam ploughs. A tenant cannot do without a common plough, but he can do without a steam plough.

To the Chairman.—I would give no preference to the tradesman who supplied a threshing-machine or steam-engine.

To Mr Hope.—I mean just to include jobbing carpenters about the farm.

To the Chairman.—There are as good tenants on the Douglas estates as anywhere, but I know they could not pay fore-rent.

To Mr Curror.—Our usual term of entry is Martinmas, and the first rent is payable at Martinmas following.

To the Chairman.—If the law were abolished, and we asked our tenants entering at Martinmas to pay at Whitsunday following, I don't think they could do it, and I don't think it would be fair to ask them. *Q.* Are these flourishing tenants?—*A.* I can only say there are no arrears on the estate.

To Mr Hope.—They pay from 40s. an acre downwards. About £500 would be necessary to stock a farm of £100 rent. *Q.* Would not that £500 be sufficient security to the landlord?—*A.* He is better with the hypothec. I have very little experience of the law of hypothec. I have only known one instance where the stock or crop was followed.

To the Chairman.—*Q.* Are many of the smaller tenants in your district men who have risen from small beginnings?—*A.* A small farm is a miserable thing. The tenants bring up their sons and their daughters to labour in the fields, and they get no wages. The small farmers are in a wretched condition.

To Mr Curror.—We are diminishing the number of our small tenants as fast as we can. We have very few sequestrations. I don't think I have had ten in all my experience. Only one of these was large, and it was in Roxburghshire. The man had borrowed his capital from his friends, and when farms were very low, in 1831 and 1832. He had to pay interest on his capital besides his rent. He was there as tenant before my time. There have been very few sequestrations on the Douglas estates in Lanarkshire. *Q.* What difference would it make to you if there was no law of hypothec, when you have had no occasion to use it?—*A.* But it keeps our minds easy.

To the Chairman.—I was for many years a farmer. *Q.* Did you ever at that time experience any evil effects from the law of hypothec?—*A.* I never thought of it at all.

To Mr M'Lagan.—I am in favour of publishing sequestrations. It would be hard on the tenant, but it would only be right to the public. I don't think it would do to compel the landlord to exercise his right for each half-year's rent or lose it. That would make him pull up the tenants too quickly. I think the right to seize the stock of others put on farms to feed should be abolished.

To Mr Hope.—I have no experience of stock being put in to feed in that way. Ours are principally dairy-farms.

To Mr Curror.—On the Douglas estates we have never had occasion to think of the hypothec; but it keeps us satisfied that we are safe, as long as the law exists. I would not approve of the law being abolished, even if existing contracts were not interfered with.

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To the Chairman.—I never heard a complaint about the law in Lanarkshire. I never heard the subject mentioned.

To Mr Carnegie.—I don't know any fore-rented estates in our neighbourhood. We don't depend on corn at all; and our terms of payment would be very sharp for farms such as those in East Lothian, where no tenant can realize his half-year's rent so as to be able to pay it at Martinmas.

(92.) Mr DAVID CAMPBELL.

David Campbell.

To the Chairman.—I have been connected with the management of landed property for about forty years. In the year in which I was born, my father—who had been bred to the profession of a Writer to the Signet, and who had inherited a respectable landed estate in the county of Kirkcudbright—became the resident factor to Mr Richard Alexander Oswald of Auchencruive, sometime member for the county of Ayr, whose estates were entailed, and were situated, to about equal values, in these two counties; the then land rental of the whole about £20,000 a year, the present approaching very near to £30,000. When nineteen years of age I was conjoined with him in that management, and for about ten years acted along with him, until through age he retired from taking an active share in the business. I continued in that charge until about a year ago, when I resigned it for my present appointment in Ayr, as agent for the Royal Bank. During his factorship, he devoted himself entirely to the duties of his charge. From the nature of his education, and his own connection with landed property, and from acquired taste, he took a lively and intelligent interest in all important questions affecting the tenure and management of Scotch property; and in those matters I had of course the benefit of my intercourse with him, and of being brought up in the midst of a Scotch factor's experiences, and under a proprietor who took a very active part in the management of his estates, and whose tendencies were always towards the abolition of land thirlages, and trade restraints of every kind, the Corn-laws included, from a conviction that they are ultimately always disadvantageous to proprietors. I mention these circumstances partly to account for my having been led to form the opinion that the Scotch farm hypothec should be abolished, as neither defensible by, nor advantageous to, any party. In giving my evidence to that effect, I wish to refer to the law of hypothec as laid down in the 'Institute of the Law of Scotland,' by Erskine, our Scotch Blackstone; and which was first published in 1754, for the use of the law students of that day, and subsequently became, and has continued to be, the highest standard authority on questions of Scotch law history and principle. The sections of the larger edition of that work to which I refer are sections 56 to 62 inclusive. Book II. Title vi. section 56:—'The landlord has in security of his tack-duty, not barely the tenant's personal obligation expressed in the lease, but a real right in the fruits of the ground, and in the cattle brought upon it by the tenant. A subject may be given to a creditor in security, either when it is put under his power; and this sort was called by the Romans *pignus*, and by us a pledge; or the debtor may, notwithstanding the security, be allowed to retain the possession of the subject; and then the right is called an hypothec. Hypothecs are either express, constituted by the explicit convention of parties; or tacit, otherwise styled legal, which, without any positive covenant, are established by the law itself from presumed consent. Of this last kind is the landlord's hypothec for his rent.' Book II. Title vi. section 57:—'All fruits, while growing, belong truly to the proprietor of the ground, in consequence of his right of property; and though they become the tenant's by his reaping, or otherwise separating them from the ground, with the landlord's consent, yet, by the Roman law, they continued, even after being reaped, to be charged with the payment of the yearly tack-duty, and so became the subject of the landlord's hypothec; because his consent to the reaping implied a condition, that the stipulated rent should be paid out of those fruits to himself,—l. 7, pr. In quib. caus. pign.; l. 61, § 8. De Furt. By that law, the landlord had no hypothec on the cattle pasturing on the ground,—l. 4, pr. In quib. caus. pign.; because these never belonged to the proprietor. Nevertheless, not only the fruits, but the cattle brought on the ground are, by the law of Scotland, subjected to this hypothec.' Book II. Title vi. section 58:—'In virtue of the hypothec upon the corns and other fruits, the landlord can either, 1*st*, retain them on the ground, against all who shall attempt to carry them off, whether

purchasers, or even creditors upon legal diligence ready to be executed by poinding; or 2*d*, he can recover them from those who have intermeddled with them. The first right, viz. of retention, is confined to the fruits which remain in the tenant's possession, that are by law impignorated for that year's rent only that is current, when the landlord exercises his right. All these fruits, whether yet growing or in the tenant's granaries, are, by the present practice, without distinction of crops of which they are the growth, understood to fall under the landlord's hypothec, as a security for that year's rent, in so far as relates to this right of retention. Thus a landlord may stop a creditor who offers to poind his tenant's corns, from carrying off even such of them as are the growth of a year, the rent of which has been already paid, unless he shall leave a quantity sufficient for the payment of the rent of that year in which the creditor useth his diligence.' Book II. Title vi. section 59:—'The right to retain is much stronger before the term of payment of the tenant's rent than after it. If a creditor of a tenant shall attempt to poind any part of the fruits for the payment of his debt *currente termino*, the landlord can stop the poinding though the creditor should leave as much on the ground, whether cattle, or even corns, as would be sufficient for the year's rent; because, before the term of payment, the landlord can barely retain the subject of the hypothec, but cannot put forth his hand to make it his own; and the cattle left on the ground may die, the fruits may be rotted with rains, or both may be clandestinely carried off before that term. His right of retention, therefore, continues till the creditor shall either make payment to him of the current year's rent, which necessarily extinguishes the hypothec, or shall offer him sufficient personal security for it, which the law, from a consideration of equity, obliges the landlord to accept.' Book II. Title vi. section 60:—'The landlord hath, in virtue of his hypothec on the fruits, not only a right of retention, but of recovery; for though they should be carried off from the ground, whether by a purchaser or a creditor, he may bring them back to the tenant's granaries, there to remain for his own security, if the term of payment of the rent be not come; and if that term be past, he may appropriate them to himself.—July 25 1623, and February 3 1624, Hay. Though it seems inconsistent with equity to sustain this right of recovering the fruits in a corn-farm where the tenant pays nothing but money rent, since the chief fund for the payment of such rent must arise from the sale of his corns, yet the landlord is entitled, even in that case, to an action against the purchaser for recovering either the corn sold or their price; and an old decision carried the point still farther against purchasers in a public market.—March 29, 1639, Hay. But that judgment is justly censured by writers, seeing the very subsistence of fairs and markets depends on the security of purchasers, who cannot possibly know the condition of every man they may happen to deal with there.' Book II. Title vi. section 61:—'The landlord has an hypothec not only on the fruits, but on the cattle. As this kind does not, like the Roman hypothec on the corns, arise *ex naturâ*, but is an arbitrary constitution introduced by custom, our lawyers are agreed that it is not so strong as that on the fruits.—St. b. 1, t. 13, § 15, etc. The chief difference between the two seems to lie in this,—that the hypothec on the cattle is not, like that on the corns, special, so as to affect every cow or sheep or lamb, but is general upon the whole flock or herd, and is, by its nature, subject to the administration of the tenant, who, upon the one hand, may enlarge the subject of the hypothec by purchasing a new parcel of cows or sheep, and, on the other, has a discretionary power of diminishing it by selling part of his stock; and if the landlord suspects the tenant's management, he may, by sequestration or poinding, make his right, which before was general on the whole stock, special upon every individual. Hence, though the landlord hath the same right of retention in virtue of his hypothec on the cattle as on the fruits, for that is a right common to all hypothecs (June 30, 1736, Pringle), yet where any number of the tenant's cattle is carried off in consequence of a purchase, the landlord has no right of recovery, the property of the goods purchased being by the sale lawfully transferred to the purchaser, unless where special circumstances may presume collusion between the buyer and seller to the landlord's prejudice.' Book II. Title vi. section 62:—'The cattle, when considered as an *universitas*, are not the produce of any one year, and so cannot be hypothecated for the crop of a particular year. They are therefore subject to the landlord's hypothec only for one year's rent at one and the same time, which is the rent of the current year, and when that is past, for the rent of the next year, and so successively one

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after another. This right cannot be exercised by the landlord before the conventional term of payment of the year's rent, because he can have no pretence to apply the hypothec to the payment of a debt which cannot yet be demanded; and if he were tied down to apply it precisely on the term day, under the penalty of forfeiting his right, the consequence might be both the laying waste his farms, and the ruin of his tenants. Practice, therefore, hath fixed on three months after the last conventional term of payment of the rent as a reasonable time to avail himself of his right, with some forbearance to the tenant.' There are several things noticeable in these extracts:—(1*st*) That, while the Scotch hypothec was derived from the Roman law, it has gone beyond its original in giving a hypothec over a crop for the rent of subsequent crops; and (2*d*) in giving a hypothec over cattle, which the Roman law did not; and (3*d*) Erskine's protest, one hundred years ago, against the inequity of reclaiming crop sold in order to provide the means of paying a money rent; and (4*th*) the reason in law which he assigns for the immunity of sales of grain sold and instantly delivered in public market, a reason much less narrow than that now so commonly assigned,—viz. that it was to protect the landlord by its publicity. He says, on the contrary, and apparently with truer reason, that it was to protect the merchant; and if so, he at least gives no countenance to the distinction taken by the Scotch bench between public market sales by bulk, and public market sales by sample. And the opinion, that the principle of the law warranted no such distinction, was most earnestly urged in the Dalhousie case in 1827 by Lord Alloway (Lord Balgray concurring), who held the distinction to be 'an infringement of the commercial principles of the country, which would in the end be most injurious to the interests both of landlords and tenants;' while a majority of the judges held that the landlord's hypothec was a right, and that the relaxation of it in favour of public market sales of grain must be construed *stricti juris*, and could not therefore be extended to public market sample sales; although it is indisputable, as pointed out by Lord Alloway, that these two modes of public sale were the mere accidents of custom, and the one as much within the principle of the merchant's protection as the other. I notice these points in support of my opinion, that not only has the Roman or civil law farm hypothec been greatly extended in Scotland, but the principle of the Scotch hypothec was, in the Dalhousie case in 1830, set aside in the landlord's favour, on a mere accident of the manner of public market grain sales,—viz. as regards sample sales; just as, in the older case of Hay, in the year 1639, it had in a similar manner been set aside as regards bulk sales,—a precedent which, however, was afterwards disregarded as too bad, and contrary to the admitted principle of the Scotch law for the protection of commerce. Lord Brougham, in deciding this case in the House of Peers, I think unfortunately fell into the error of assuming that the Scotch hypothec was a landlord's right, and that any relaxations from it were to be considered as *stricti juris*—that they were relaxations on fact, and not on any principle. I think that, through inadvertence, he did not perceive that his function was to have decided that case according to the principle of the consuetudinary law of the country regarding it, as embodied in Erskine's Institute; and I think it was peculiarly unfortunate that (from his own account of the matter) he decided it on information not derived from a close study of that law, but from information which he privately sought from private extra-judicial sources. In giving judgment he said, the Scotch hypothec is of 'the strictest kind;' and 'however tending to fetter commerce, and however inexpedient such a law may be, judges have but to administer the law.'—Appeal Reports, Dec. 1830. No doubt he informed the Lords, at the same time, that they might rectify the law by an Act of Parliament, and, with Quixotic zeal, framed a Bill to counteract the effect of his own decision; but a remission of taxation might as well have been referred to the Board of Inland Revenue, and his Bill fell still-born from his hand, while his decision has ever since made the law a law of arbitrary dictum, instead of one of expedient principle. An argument in favour of the Scotch hypothec is sought in the Rent Distress Law of England; but I think it is a matter that should be decided on its own merits, and not from any borrowed light, otherwise the law of England might by this time have been assimilated to that of Scotland. There never was any farm hypothec in England, but only a preferable power of distress to the landlord, if used, and after the rent is due, but not sooner; and no power of reclaiming any unattached effects removed, unless on the plea of fraud, which is a protection to all creditors alike. Crops were not, by the common law of

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England, attachable for farm rent, not being held to be chattels personal, and were only made so attachable by the statute 11 Geo. II. cap. 19, sec. 8. My authority for this is Smith's Law of Landlord and Tenant (London 1855, pages 149 and 150). I think the preference which the hypothec gives to the landlord is not fair, and for that reason alone I think it ought to be abolished. It was instituted in barbarous times, and when the landlords were almost the only capitalists, and had so much legislative power in their hands, that the Crown even was often induced to take the part of the people in resisting the oppressions of a too powerful oligarchy. Although this hypothec has come to operate chiefly against the tenant's *bonâ fide* creditors, it was originally, I think, intended as a protection to the landlord against his tenant's fraudulency, so that change of times has changed its purpose and operation to an extent that warrants its abrogation. It has become virtually a black-mail, which the landlord, almost without being aware of it, levies on a country-side, and but for that it would be useless to him. In its operation it is like the legalized spring-guns and man-traps which were disallowed about forty years ago, or like an unguarded quarry, or coal-pit, or empty bee-house, or locomotive engine on a public road; all of which are forbidden by law, on the principle of jurisprudence, that injuries to our neighbour, which we may not do directly, we may not do indirectly. It is one of that class of aristocratic privileges, which ultimately wrought so much disaster to rights of property and to society in France. Even so late as 200 years ago, there was in this country very little either of agricultural intelligence or capital, and rents and tithes were chiefly paid in kind; but now these are all paid in money derived from farm sales, which are quite inconsistent with a latent hypothec; and it is not any active sequestration that is complained of, provided it were published—a sequestration which might be continued to the landlord even before the rent is due, as at present, on sufficient cause shown, but only not preferably. The wealth, intelligence, and influence of the farming and merchant and mechanic capitalists have increased so much, that the abolition of this singular preference, as concerns landed property, can, I think, only be a question of time. A tenant, whose rent requires to be secured or recovered by hypothec, is not an advantageous tenant; and to maintain him in possession, which the hypothec does and professes to do, is an object unworthy of public solicitude. The law has created now more than ever an uncomfortable and injurious feeling, that the landlords, as a class, are disposed to be selfish, and jealous of those with whom their tenants require to have pecuniary transactions, and all for an object which is not worth its odium. With some recent exceptions in special districts, the hypothec has so rarely been required to be put into active operation as to afford, in my opinion, an argument not in favour of its continuance as necessary, but in favour of its abolition, as of very little use to those even who think it useful. On a general view of its practical application in the recovery of rents, judging from my own experience and observation, it is not made use of in more than one case in 200; and in that rare case it has generally been rendered necessary by an over-confidence, or want of energy, or over-indulgence in the management induced by the hypothec itself, and of which I do not shrink from quoting my own personal experience. It is practically a consideration of whether the landlords shall be secured preferably in 20s. a pound, instead of a common dividend of something less, upon one-half per cent. of their gross rents; whether they shall be protected preferably against the accident of a tenant's insolvency, occurring on an average of one in 200 cases, or, in the case of each farm, on an average of once in 200 years. It is after all only a security against the risk of losing a portion of 10s. in the £100, and is nothing to the tenant's risks from cattle disease; and, to secure this little modicum of rent, public feeling (if it were nothing else) is outraged, while the risk might be guarded against by other and more legitimate means. It is, in fact, an insurance against their own and their agent's forbearance or inactivity. It is undoubtedly a thorn in the flesh to the community; and its landlord policy is not wise, but foolish. I feel so much convinced of its uselessness and harm to landlords, that I am confident that any large proprietor who would for ever renounce its privilege would do a most beneficial thing for himself, and for his family and estate. A tenant sequestrated may be said to be a tenant destroyed, and the sooner he is removed, if an honest man, the better for himself, and for his landlord and neighbourhood; and if he is not then made technically a bankrupt, it is only because his landlord is secured, and his other creditors overawed.

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I think landlords are not entitled to their rents, until they are got out of the ground. Forehand rents are essentially rent accommodation bills to the landlord, discounted by the tenant; and I think, as a general rule, are objectionable as a misapplication of that agricultural capital, which has never been over-abundant, and is not, I think, likely soon to become so plentiful as to be available for advances to landlords, excepting at a very high per-centage. Where forehand rents have been the practice, the inconvenience to the tenants has already been overcome, and the convenience to the landlords secured; and they may therefore, perhaps without much difficulty, be continued; and there can be no doubt that the landlord amply pays for them in a diminution of rental. I think the effect of the hypothec on the letting of land has been exaggerated; but I believe that, unconsciously to factors and agents, whose influence in the letting is usually much greater than that of the proprietor, it renders them less fastidious, and more sanguine in regard to offerers' capital than they would otherwise be; and no wonder, because it promises them the security not only of the offerer, but of his other creditors. They often, I believe, let under an impression that the offerer's capital is enough; and, as weighed against 5 or 10 per cent. of less rent, do not sufficiently estimate the advantage of ampler means, not considering how much an overburdened tenant is a misfortune to his landlord. I have known a farm so impoverished by starvation and shallow ploughing as no longer to yield seed and labour, and the first year in new hands the crops lodged from over-manuring. The tenant was over-indulged, and ultimately rouped out, and obtained a situation as a land-steward, which greatly improved his condition. I do not think the abolition of the hypothec will lower rents or change tenants more than they need to be, even if the law is continued. The change might disqualify or dispossess some, but would bring in a great accession of capital which at present is scared away by the consideration that farmers have assigned their whole effects, if need be, to the landlord in security of the rent, and that to lend money to a farmer may prove like putting a hand into the fire. I do not believe that landlords will change their tenants through any mere vague apprehension of losing future rents, for I do not think the connection has yet become so stringently mercantile. The hypothec has no reference to the security of the landlord's property, but only to the security of the annual rent derivable from it. In order to obtain a yearly return from it, he gives the use of it to his tenant; while the tenant, on the other hand, for his own advantage, undertakes, by means of his capital, skill, and oversight, to produce a rent to the landlord; and I do not think there is anything in their relative positions, in the present condition of society, which can justify the law in volunteering to give the landlord a security for the rent preferable to that of the tenant's other creditors. The landlord does not resign his property to his tenant during a lease, any more than a dairy-farmer resigns his cows to his bower. A farm lease is only a cultivation or husbandry contract. The landlord can still walk over his property, and hunt and fish and vote upon it, and plant and cut trees, and drain it, and build houses on it, and make roads through it, and work the minerals, and do almost everything that he could do were it in his own full occupancy, except farm it himself, and probably lose money. And, when the tenant fails to pay the rent, the landlord can by law, or may by stipulation, enforce security or removal, so that it is by no means to the tenant an absolute right of occupancy for the whole period of the lease. The publication of farmers' sequestrations would certainly remove a commercial scandal. The cases of hardship that have arisen out of the hypothec are numerous; many of them are never heard of by the landlords, and scarcely any of them reach the law courts; but they sour the temper of rural society. I know two cases in which farm-servants lost nearly £100 each of wages, accumulated in their master's hands. The one was for many years on the parish; and the other, now an old disabled man, with an old wife, has still struggled to keep himself off the Poor's Board, and I saw her doing her part in the struggle, working at field work, within the last ten days. I knew an industrious country blacksmith who lost about a similar sum of smith's accounts, and, to retrieve himself, got a licence to sell whisky, which only made matters worse. These things are not forgotten in a country-side, and seriously impair the respect naturally due, and cheerfully felt, towards landed proprietors as a class. It has been proposed to restrict the period after the rent falls due within which the landlord may sequestrate, in order to secure his preference, from three months

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to six weeks or thirty days. I think this, in seeking to avoid one evil, would lead to another; sequestration would, in that case, become too much a matter of impulse and not of discretion, and to tenants would involve unnecessary hardship. The holder of a dishonoured bill is allowed six months within which he may, without any legal sacrifice, abstain from the step that necessitates exposure; and I think the three months allowed to farmers by the humanity of the existing law is not too much. Should the law come to be abolished, I think it would not be of much consequence either way to exempt existing leases from the change, excepting in so far as it might conciliate opponents. It is said that no such provision in favour of existing leases was made when the Corn-laws were abolished. But the cases are not analogous. Objecting farmers then asked for a controverted and unascertainable compensation. Objecting landlords would in this case only be asking to be let alone until the expiry of their current leases; and, as regards the community, the ultimate object being gained, a temporary inconvenience might be submitted to. A certain odium has in this matter been sought to be cast upon grain and cheese dealers, and seed and manure merchants, as if, however indispensable, they were the Jews or harpies of agriculture, and the disturbers of landlords' peace; but it should be remembered that they represent the interest of all the smaller postponed farmers' creditors, and that, but for them, the grosser peculiarities of the hypothec, as it has been shaped by adjudication, would not have been put in the way of amendment; and it is just one of the fruits of a partial law, to set class against class, where the interests of all would naturally blend themselves into one common beneficence; and my opinion of the impolicy of the present law is such, that, if the hypothec cannot at present be dispensed with, I would prefer its being let alone, rather than that Parliament should in its first interference sanction an impolitic class measure. I think it is unnatural to pay a rent before reaping a crop; but I don't say it is unfair, if that is the bargain. It is matter of contract, but I think it is impolitic; and I don't believe in the prophecy that forehand rents would be the result of the abolition of the law.

To Mr Hope.—I think landlords would find it for their interest not to exact forehand rents.

To the Chairman.—I am not prepared to give evidence as to the urban hypothec, or the maritime hypothec; but I would say that a hypothec, if it is justifiable at all, must be justified by some very strong apparent necessity. My opinion is, that there is no analogy whatever between a heritable bond and a right of hypothec, and it is impossible to make them out to be analogous. A man, who lends £10,000 on a heritable bond, lends it on a voluntary contract. The hypothec is not a voluntary contract, but an arbitrary preference. It is the bond that gives the heritable creditor his preference. *Q.* Is the hypothec not a privilege given to landlords by the law, as a part of the contract into which they enter with their tenants?—*A.* The hypothec is a privilege which the law gives to landlords; but the law has nothing to do with any contracts, excepting to enforce them. *Q.* Is the preference that a heritable creditor has over a personal creditor not also a privilege which the law gives to him?—*A.* No; it is a right like that which a wife has to be supported by her husband.

To Mr Hope.—I think that farmers generally in Ayrshire have been losing money during the last four years. Their resources have been diminishing. I believe there have been a good many sequestrations among them during the last eighteen months.

To Mr Curror.—If land was fore-rented, I think it would reduce the rents. I think landlords would find it for their advantage not to ask fore-rents. I think it would lower the rent more than the interest of the money. I think it would be an impediment to letting. I think the hypothec is very injurious both to landlord and tenant; and chiefly because it induces a degree of indulgence, on the part of the landlord, that is very detrimental, and prevents that assistance from friends which farmers would otherwise obtain.

To Mr M'Lagan.—I don't think landlords are entitled to any security whatever, except what they provide for themselves. I would recommend a landlord just to take the security of selecting a good tenant. I would trouble myself with nothing else. It was my almost uniform practice to refuse cautionry for a new tenant. If he needed cautionry, I would not have him at all. *Q.* Suppose a farm was let at Martinmas, and the rent is due at Candlemas and Lammas, by which time all the crop is sold off, and the manure merchant and other creditors

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of the tenant paid; if the landlord sequestrated at Lammas, he would find nothing on the farm; is that not a case where the general creditors would be paid before the landlord, if there was no law of hypothec and back-rents?—*A.* The practice I have been accustomed to is the first half-year's rent paid at Martinmas, and the second at Whitsunday; and I think that it is not worth guarding against the chance of the tenant preferring to pay his other creditors. If the other creditors came upon him, he could ask the landlord to sequestrate him.

To the Chairman.—I would not take away the power of sequestration. I think it would be well to leave it to the landlord even before the rent is due. I would give the landlord every security not preferable. He can sequestrate now before the rent is due, if the tenant is *vergens ad inopiam.* *Q.* How long have you been giving your attention to the expediency of the hypothec?—*A.* Chiefly since this recent agitation arose; but it is six or seven years since I was led to entertain the question of its policy on the part of landlord and tenant.

Tuesday, March 21, 1865.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE. MR HOPE.
MR M'LAGAN. MR CURROR.

(93.) MR WILLIAM SPROAT.

William Sproat.

To the Chairman.—I am a farmer at Borness, Kirkcudbrightshire. My farm extends to about 430 imperial acres, and my rent is 500 guineas. In conjunction with my son I have also the farm of Baldoon in Wigtownshire, which extends to about 600 acres, and the rent is £1000 for the first five years and £1200 after that. I have been a farmer for upwards of forty years. I have always occupied the farm of Borness, and my father had it before me. In the stewartry of Kirkcudbright generally, the term of entry is Whitsunday and separation of the crop. To Baldoon the whole entry is at Martinmas; and the tenant has the inputting of the wheat-crop, or must pay for it to the outgoing tenant. In the stewartry the first half-year's rent is payable at Whitsunday before reaping; but a great many of the landlords don't collect it for three months afterwards. Lammas and Candlemas are generally the terms, though by the lease the rents are payable at Martinmas and Whitsunday. A year's rent is payable before any crop is reaped. A considerable part of my farms are pasture. I have it in my power to have under crop one-third of the farm, but generally I have not more than a fourth. We have the grass before we pay the rent.

To Mr Hope.—If I were leaving the farm, I have a right to have one-third in white-crop, and the rest would be in pasture, less the green-crop break. The tenant generally succeeds to the turnip break in April, and he may have a third in white-crop, and the remaining two-thirds in pasture or turnips.

To Mr Curror.—We generally calculate on between sixty and seventy acres of white-crop, and the half of that in green-crop, on a farm of 400 acres.

To the Chairman.—I have a croft in permanent pasture, and there is a margin along the shore which is not suitable for ploughing; that will be between thirty and forty acres. I know pretty well the general state of the agricultural interests in Wigtownshire and Kirkcudbright. I have extensive acquaintance with the farmers. *Q.* What is your opinion of the law of hypothec; does it operate prejudicially or beneficially?—*A.* We have very little experience of it. I have only known a rare case or two of sequestration in my district in all my experience. These were not extensive farmers; but I don't know more than two such cases in all my experience. I don't know so much about Wigtownshire; but in Kirkcudbright I have known scarcely any cases. The farmers in my district see the examination of the witnesses before this Commission, but we know very little about the hypothec otherwise. *Q.* There is no agitation in your county for a

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change in the law?—*A.* I don't think it; but any I have heard speak of it seem to disapprove of the law altogether. We don't think it would affect either the landlord or tenant at all whether it was abolished or not. *Q.* Do you mean that you disapprove of the law, or of the proposal to change the law?—*A.* We think the proprietors have so much in their power in selecting a tenant that they can secure themselves. Wherever there is a farm to let in the district, there is always a sufficient number of good men to take it, if the proprietor is not determined to have the highest rent; and we think he should take his own risk. I don't think the existence of the law has had any effect in making landlords careless in the selection of their tenants in my district. It is very seldom indeed that the highest rents are taken; and the men preferred are generally practical agriculturists. *Q.* And there have been few sequestrations, and the agricultural interest generally is thriving?—*A.* There are not many of us make rich. There have been a great many changes in the district where I come from. When a farm is out of lease there are plenty of competitors for it—plenty of good men—men of capital and skill. *Q.* Then, while you think the law is liable to objection in point of principle or theory, you cannot say practically that in your district you have had any experience of it one way or other?—*A.* Very little indeed. In the two cases that I have referred to, the landlord took advantage of it, and the creditors got very little; but these are the only two cases that I recollect of. Lately the practice of bowing has become pretty general in our county. Some of the dairies the tenants keep in their own hands; but the greater number let them to bowers, who are practical men in the making of cheese. They let the cows by so many stones of cheese generally. They point out what land they think will be sufficient to feed the cows, and they give so many turnips in winter, and so much bean-meal. If a cow dies, the tenant stands the risk.

To Mr Hope.—I don't think he is bound to put in another when a cow dies, though I dare say the dairyman expects him to do so. The cows continue the property of the tenant.

To Mr M'Lagan.—I am not aware of any case in my district where the bowers purchase the cows, and put them in; but I have heard of such a thing.

To the Chairman.—In my district the cows continue to belong to the tenants, and are liable to the landlord's hypothec.

To Mr Curror.—I have heard that as high as £11 of money rent is given for a cow; but for that the tenants give also three imperial bushels of beans, and perhaps a little oats, and so many turnips, besides as much straw as the cow requires, and a sufficiency of grass. The bowers, generally, have not much means.

To Mr Curror.—There are not many very small tenants in Galloway, though there are a few.

To the Chairman.—The rents vary from £90 to £100 or £150, and, in some few instances, £50 or £60; but there are not many of these.

To Mr Carnegie.—These small tenants have been industrious farm-servants, and have been able to take a small farm. *Q.* Do you find that the system of payment of rent in your district in any way prevents farm-servants from raising themselves in that way?—*A.* I don't think so—for a small farm where they can take it; but there are very few small farms in our part of the country. Grieves, and people of that sort, however, do raise themselves and take small farms.

To Mr Hope.—The entry to Baldoon is at Martinmas. It is different from the rest of Lord Galloway's land in Wigtownshire. The stipulation is, that the first half-year's rent is payable at Candlemas, and the other at Lammas. I entered to very little grass. The previous tenant had 270 or 280 acres of crop. In the course of my experience there have been a good many changes of tenants in my neighbourhood, from their dying out, and from other causes. When a lease is out, the old tenant generally gets the option to take it again. On Lord Selkirk's estate it is very rare indeed that a farm comes into the market. The tenants generally get leave to remain at the old rent; but, where a tenant dies in the farm, it is exposed to the public. Generally when leases expire, if the proprietor and tenant don't agree, the farm is exposed to the public; and very often the landlords take pretty near the highest offer, though not quite the highest.

To Mr M'Lagan.—The tenantry of Galloway have not much experience of the law of hypothec; but, so far as I have ascertained, the opinion generally is that it is unfair, and that the proprietor has it in his power to select a good tenant, and should run the same risk as the manure merchant or the seed merchant. *Q.*

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Do you know any case where the tenant, by receiving temporary indulgence from the landlord in regard to paying his rent when he was in difficulties, has afterwards thriven?—*A.* Yes, that is generally done; if it was not done just now, a great many would go to the wall. *Q.* Do you think landlords generally, unless they had the security of the law of hypothec, would be inclined to give that indulgence?—*A.* Where a landlord has an industrious tenant, he would not distress him for a small thing, but would have confidence that, when times improved, he would pay him, or else he would reduce his rent. Generally I think landlords do give a deduction where there is a succession of bad seasons. *Q.* But if the law of hypothec were abolished, would they be inclined to act in the same way?—*A.* I should hope they would. I think the landlords have suffered no loss in our part of the country. *Q.* Are you aware of any cases where parties have risen from being farm-servants to take small farms, and have gradually taken larger farms?—*A.* They have added field to field; but they have never, so far as I recollect, taken large farms. I call a farm of 300 or 400 acres a large farm. They have perhaps taken a farm of 100 acres. If I were lending money, I would ask security, unless I had every confidence in the borrower. *Q.* The landlord gives his land for a certain number of years; don't you think it fair that he should have some security?—*A.* He gets his rent half-yearly, and I cannot see what right he has to more. He only risks his rent for half a year, and his land is always there, and we think landlords should be careful in the selection of their tenants. I think they are careful, though there may be rare instances in which they are deceived; they exercise great caution, and seldom take the highest offer. *Q.* Supposing the landlord has selected a first-rate tenant, but, before the lease is half out, the tenant dies, and the management of the farm comes into the hands of trustees; does it not often happen that the farm is given back to the landlord in a worse condition than when it was let to the tenant?—*A.* There may be instances of that. *Q.* Is it not fair that the landlord should have some security when he runs all that risk, and gives away his land for nineteen years?—*A.* I have not given that question very much thought, but one would say it is only reasonable in a case of that kind.

To Mr Carnegie.—In some instances the farmers in Galloway put their sons into farms, but now they are more generally turning their attention to something else. We think the land is getting beyond its value, and that farming is a very poor trade. A great many people from Ayrshire take land in our part of the country; and the bowers who keep dairies have been able to pay more rent than the people in the district, and that has been the cause of a great many changes. They are mostly all Ayrshire people who have introduced the dairy system.

To Mr M'Lagan.—When cheese sells well, they are able to pay higher rents. In my younger days very few cattle or sheep were fed in our district; now it is entirely a sheep district.

To Mr M'Lagan.—There is a bower on Baldoon, and about 100 cows.

(94.) Mr THOMAS BIGGAR.

Thomas Biggar.

To the Chairman.—I am a landed proprietor in the stewartry of Kirkcudbright, and I also have a farm. My own estate is 190 imperial acres, and my farm, King's Grange in the parish of Urr, 350 acres. I pay £487 of rent. The term of entry to the farm is Whitsunday and separation of crop, and I pay my first rent at Martinmas before reaping. That is the general term of entry in that district. The stipulation is to pay at Martinmas, but I believe the rents are frequently not collected till February. I pay at Martinmas. My father was a farmer, and I was brought up with him. I have been engaged in the practice of agriculture since 1836, and always in the same county. I also deal in seed and manure, principally in that county, but also in Dumfriesshire. I am pretty well acquainted with the state of agriculture in Kirkcudbrightshire, but I do not know the opinions of the farmers generally in the county on the subject we are at present considering. *Q.* Have they formed any decided opinion as to the effects of the law of hypothec?—*A.* I cannot give you the farmers' opinion on that subject. My own opinion is that there should be no law on the subject at all. I think the landlord should be left to manage his own business, in the same way as a mercantile man is left to manage his. The landlord is not bound to let his land, and he can make his own terms—fore-

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rent, or payment when the tenant enters. So far as I have been engaged in trade, I have found the law very disadvantageous, because the landlord has generally been paid in full, while the manure merchant and other dealers have had to come in for a very small dividend. *Q.* Are there many sequestrations in your district?—*A.* For the last five years I find that I have made twenty-four bad debts in different counties, the amount of the debts being £409, 2s. That debt represented dealings to the amount of about £10,000 a year for manures. I buy seeds from the farmers and sell wholesale, mostly in England; but I have a small retail trade at home in a similar business with farmers, in clover and turnips, and also in rye-grass. The bad debts which I have mentioned are upon dealings of about £11,000 a year; but they are for five years, so that, on dealings amounting to £55,000, I have lost £409. I think that a considerable loss, because our profit is very small.

To Mr Carnegie.—The £409 is the amount of bad debts, but on these I got a dividend of £108, 3s. 11d.

To the Chairman.—My loss has been about £300 on dealings to the extent of £55,000. I don't complain of that as a very heavy loss, but it is nearly as much as I had lost for twenty years before.

To Mr M'Lagan.—It was owing to the bad years.

To the Chairman.—I attribute the loss to the bad years, and not to the law of hypothec. The £108 was nearly all paid by two debtors, and there are only five debtors from whom I received anything. One of the cases was not exactly a failure; it was that of a tenant who bought £17 worth of manure from me three years ago. The year before that he bought his manure from one of my neighbours. The next year I did not find out where he bought it, and the fourth year he bought it from another acquaintance of mine. He paid none of us anything. After I had given him two years' credit, I handed his account to a man of business, who got decreet against him; but his factor immediately hypothecated him, and he is going on farming still and paying nothing. On inquiry I found that he had just about as much as would pay the rent he was due, leaving nothing for the creditors. The farmers in the district generally do not pay ready money for their manures; and there are cases in which we are deceived, and the landlord steps in and takes all. If the law of hypothec did not exist, the landlord could demand what security he pleased; he would first ascertain whether the tenant was worthy of credit or not, or could say that he would take a less rent, and have it paid on entry. No doubt the landlord enters into a lease for nineteen years; but if the tenant does not pay the rent, he can be ejected. I never knew any difficulty in getting quit of a tenant. *Q.* Then you don't think that a man who lets his land for nineteen years ought to have any better security than a manure merchant who deals from day to day?—*A.* No. The term of entry is at Whitsunday, and for the first half-year the tenant has only the pasture and the houses. During that time he buys his ploughs and all his implements, and he puts manures and seeds in the land. Even supposing he has paid for his seeds and manures, they are still in the land, and the landlord has the advantage of the security of these. The only thing the tenant has to get the rent out of is the following crop, which the landlord could seize to pay his rent. When a tenant fails, the landlord very often gets back his land in as good a condition as it was when he let it. I don't think landlords are particularly careless in their selection of tenants. I think they would take the best man if he would give the same rent; but there is a tendency, more particularly in the small farms, to take men who bid the highest rent, though they have not ample means. Some of the tenants who are selected are farmers, and others belong to different professions. Of those who come from other professions, I think there are as many successful as unsuccessful. My opinion is that arable land is let too high in our district at present prices. I don't think farmers are making their own within the last few years, and it is that to which I attribute the failures, except in cases where they are working with stock as well as grain. Small farmers, paying £100 a year of rent, cannot pay their rent off grain. There are a good many small farms in Kirkcudbrightshire—I mean farms under £150 a year. They pay fore-rents the same as the others. A few of these farmers are men who have risen from being farm-servants. I don't think they are prospering; and I attribute that to want of capital, and to their having to pay their rents off grain. They do not get the advantage of cattle and sheep, their farms being

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too small. I don't think it would be an advantage if their farms were back-rented. They would just get the farther behind.

To Mr Carnegie.—It is owing to the present grain prices that they are doing so badly. Farmers with from 200 to 400 acres have not suffered so much by the bad years, because they keep cattle; but the small farmers suffer greatly.

To Mr M'Lagan.—We had at one time very few dairy-farmers in Kirkcudbrightshire. The dairymen came generally from Ayrshire. Small farmers in our district keep Galloway cows, and breed their own cattle, and sell them. The cattle have been selling pretty well; but they have not been paying so much as sheep. There are two systems of rotation on our farms. In the five-year rotation they have two-fifths in white-crop, one-fifth in turnips, one-fifth in hay, and one-fifth in grass. Some farmers sow out in seeds, taking a crop of grass in place of the grain, and grazing the sheep.

To the Chairman.—There has been a good deal of talk about the law of hypothec in our county since this Commission was opened, but not before. Till very lately we had almost no failures. For twenty years I did not make £400 of bad debts, and there was nothing to call up the question. When I took my farm in 1844 on a nineteen years' lease, I paid £185 of rent; and interest on drains, £11, 2s. The adjoining farm was rented at £110, and £35 for interest on drains. These two farms form my present farm of Grange, of which the rent is £487. I consider that, since the introduction of artificial manures in 1829, farmers have been gradually getting into a better position. Five years ago the law of hypothec was not spoken about, because there was no occasion for doing so. But since then manure and tile merchants, finding that grain farmers were getting weak, thought that it was unfair that they should supply the very articles which enable the farmer to pay an advanced rent to the landlord, and that, in case of a tenant's failure, the landlord should take everything. *Q.* Can you not avoid that loss by being cautious with the people you deal with?—*A.* If I sell on credit to any man, I run the risk of losing, and I don't see why the landlord should not do the same. I don't see why he should be protected at the risk of other merchants, when he can sell on his own terms. I can sell my manure for cash, or at six or twelve months' credit; and if I take the higher price for the greater risk, the fault is my own. A landlord is in a precisely similar position. He can demand the rent the day the tenant enters (and a great many of our farmers could pay at that time); or he can demand it six months afterwards, making the rent a little higher; or if he does not ask it for twelve months, he will get a still higher rent. I do not think it would be for the benefit of agriculture if landlords did not grant leases; and I am sure landlords would not refuse to grant leases even if the law of hypothec were abolished, because they would get less rent without them. A landlord grants a lease in order that he may get a higher rent.

To Mr Hope.—In our district, farmers pay the whole year's rent before they get any advantage at all. We enter at Whitsunday to the grass land, which is very little. If it is a five-years' rotation, the grass is only one-fifth; or, if it is a six-years' rotation, only two-sixths. Then we get the fallow land, for which we have to buy the manure, and we have to work it. We have to buy the former tenant's crop; and we put in another crop the following spring, which is not reaped till autumn. Generally speaking, the landlord is bound to take the waygoing crop at a valuation. *Q.* Then the tenants, seeing that they have paid the rent before that, will generally leave the farm with a considerable sum of money?—*A.* Yes, of course. *Q.* And you run less risk in selling manure to tenants in that position than where they are back-rented?—*A.* No doubt of that.

To Mr Curror.—Out of eighty farms in the parish of Urr, only seven have descended from father to son. Unless in the case of large proprietors, when a farm is out of lease it is generally advertised, and the highest rent taken. I don't say that is always done. An inferior tenant with less capital is often preferred if he offers a higher rent.

To Mr M'Lagan.—I think the farmers in our district were in a prosperous condition up to 1859.

To Mr Curror.—There is scarcely a farm advertised but there are ten or twenty good men offering for it, to whom it would make little difference if they paid rent the day they entered. There are several Ayrshire men amongst us. What keeps up the competition is this,—that a good many small farmers' sons go

into England, take up another line of business, and, on their return to their own district, they take a farm, which causes a change of tenants. Thomas Biggar.

To the Chairman.—A great many of these men make good tenants. They are farmers' sons, and come back to the vocation which they followed originally.

To Mr M'Lagan.—It would make exceedingly little difference in our district whether there was a law of hypothec or not. As to all farms above £300 of rent, I believe it would make no difference, except the interest of the rent if it was paid half a year sooner. The landlord might think prepayment necessary if the law were abolished.

To Mr Curror.—The reduction of rent, in consequence of the earlier payments, would not amount to more than from 5 to 7 per cent. On small farms it would make a difference, because they go in with less capital; but I have very seldom seen that a man in my neighbourhood, with too little capital, did any good to himself, the landlord, or the nation, because he never fully develops the resources of the soil. There are a good many £50 and £100 farms, though they are rather diminishing. One or two of the parties included in my list of bad debts were in Dumfriesshire, but most of the debts were due in Kirkcudbrightshire.

(95.) JAMES SINCLAIR, Esq.

To the Chairman.—I am proprietor of the estate of Forss, in the county of Caithness. I farmed for some years, and do so to a limited extent yet. I did so pretty extensively for twenty-five years. On my estate there are thirty-eight tenants under £50 (striking off all at £5 and under as crofters), eleven under £100, nine under £200, one under £300, two under £400, and one at £500 and upwards. Upon the property of Mr Sinclair of Ulbster there are 214 under £50 (not including crofters), twenty-eight under £100, twenty-two under £200, seven under £300, three under £400, and two at £500 and upwards. The average rent per acre on these estates does not exceed £1. The farms are partly agricultural, but to a considerable extent they are breeding farms, for both sheep and cattle. The usual term of entry, almost without exception, is Whitsunday and separation of the crop; and the rent is paid, either half at Martinmas following, and the next half at Whitsunday, or more generally at Candlemas, nine months after entry, and at Lammas. The farms are all forerented, except on one estate. I think the law of hypothec has operated beneficially to the interests of agriculture in Caithness to an incalculable extent. Generally speaking, the great mass of the tenantry have not much capital. They are industrious and frugal, but they are at times obliged to obtain indulgence from the proprietor, and that indulgence could not be granted without the law of hypothec. They are wonderfully punctual in paying their rents, considering their means; but, in bad years, it is necessary to give them indulgence. I am quite convinced it would be impossible for the landlords to give that indulgence but for the law of hypothec; and, but for that law, there would be a most harassing amount of watchfulness and jealousy on the part of the landlords, to which tenants are not at present subjected. If the law were abolished, the amicable relations between landlord and tenant would be materially affected. At the same time the right of hypothec is rarely resorted to, and sequestration is very rare. My factor, who has been factor on several large estates, and who is also a bank-agent, tells me that for many years back the law has rarely been acted on in the county. I think I could count on my fingers all the cases in which I have been compelled to resort to it myself within thirty-five years; but the existence of the law is a great protection. In one of the last cases in which I resorted to it, the tenant had got into bad habits; and the mere sequestration had the best possible effect, because he is clearing off everything, and is now in a position to go on and pay all his creditors. In another case the tenant got into arrear with the manure merchant, and some of the creditors asked me to sequestrate him. I did so, and everything will be paid. My factor says that, in almost all the cases where he has had to exercise the right, either an arrangement was come to, or the creditors came forward and satisfied the landlord, and were allowed to manage the effects of the tenant. That occurred in the case of one of the largest farms on my own property, where the tenant was made bankrupt and put under trust, not by me, but by the other creditors, and in two years James Sinclair.

James Sinclair.

they extricated themselves and paid me. I never heard the most remote allusion to the law of hypothec by the tenants in Caithness. I don't think the smaller tenants, who are most subject to it, desire any change, and the larger tenants hold themselves quite above it. I think they would consider it a want of self-respect to imagine that it could reach them. Of late years there has been a large application of artificial manures to land in Caithness. One of the largest manure merchants in the district states that it must amount to at least £20,000 a year. The merchants who supply it live in the county. I have heard no complaint of the law on their part. On the contrary, the largest merchant has made few or no bad debts; and another, who is a tenant of my own, I never heard making any complaints. There has been a marvellous change on the character of the tenantry of the county of late years. Both landlords and tenants are poor, and the drainage loan of 1847 gave us a great lift. The principal changes among the tenantry have been by some large tenants from the south coming in and taking farms; but there have been very few changes among the smaller resident tenants. Those from the south were mostly practical agriculturists; and, in my experience, a practical man with limited capital is invariably preferred to an unskilful man with large capital. Where that has not been the case, the farm is generally returned to the landlord in a very deteriorated state. Landlords are not careless in choosing their tenants. The tenants from the south have almost all quitted the county and thrown up their farms. They did not understand the climate; and I think they came in with the idea that they would make money without much trouble. I think the landlord's right of hypothec ought not to extend beyond one year ; and though it has never been acted on in the county of Caithness, I would not allow a landlord to follow grain after it has been *bonâ fide* sold and delivery given. I don't know that I would even require payment of the price. I know one extensive distiller and corn merchant in the county who is in the habit of receiving grain as it is threshed out from Martinmas onwards, and I don't think he pays for it till after the fiars' prices are struck; but the deliveries to him are quite *bonâ fide;* and in view of such cases as that, I think there would be a hardship in insisting on payment as necessary to free the sale from the landlord's hypothec.

To Mr Carnegie.—In those cases where there was delivery without payment, the landlord should be entitled to arrest the money in the hands of the purchaser.

To the Chairman.—I have never thought of what would be the effect of compelling the landlord to exercise his right every half-year, or lose his preference. I could scarcely give an opinion as to the effect of that, because a very great change is taking place in the mode of managing farms. Corn-growing is diminishing, and I hope will still diminish, and the breeding and rearing of stock is increasing. I am therefore not at this moment prepared to give an opinion upon that point; but I think the landlord should only be permitted to sequestrate for one year's rent, and that within a limited period, for the rent due.

To Mr Carnegie.—Our rents are commonly paid at Candlemas and Lammas. They are so stipulated in the leases.

To Mr Hope.—They are paid before the crop is sown. The first half is paid while the tenants are putting the crop in the ground.

To Mr Carnegie.—I don't see any objection to the publication of sequestrations, if it would afford any security to the public generally ; although, at the same time, I don't see that it would be any advantage, because they are perfectly well known in the district. There is great competition for farms in some districts. I would call a farm under £100 rent a small farm. There is great competition for crofts of £5 or £10 ; but the competition for these farms seems to be a sort of periodical epidemic. We find no difficulty in getting good tenants, paying fore-rents. Most of the tenants on my own property are men who are either the sons of farmers, or have been small crofters or blacksmiths, or persons connected in a small way with agriculture. *Q.* It does not consist with your knowledge that fore-rents have prevented these people from taking farms and raising themselves? —*A.* No; it is the invariable practice, and I have never found any difficulty in letting a farm. A good many farmers put their sons into their farms, and in many instances the father, as he gets old, resigns in favour of his son. The son succeeds the father; and we look upon these as the most valuable class of tenants, because they never deteriorate the farm, which some of the larger ten-

ants do to a great extent. They treat it as a commercial transaction, and, as the lease draws to a conclusion, they take out of the land all that they can. James Sinclair.

To Mr Hope.—The three last years have tried the Caithness-shire tenants very severely, but they are producing good effect, because they have led to the discouragement of corn-growing, and have induced the farmers to breed; and the present prices of wool, mutton, and beef render that very profitable. I have not heard of many sequestrations during the last twelve months; and I think my factor, who is a bank-agent, and factor on two or three of the larger estates, would have mentioned it to me if such had been the case. The indulgence given as regards the crop extends over a longer period than three months, because the rent payable at Candlemas and Lammas 1865 is for the crop now going into the ground, and it affects that crop till it is all brought to market, which it seldom is before the Whitsunday following. *Q.* You seem to think that the sequestration may do a great deal of good to the tenant; but could he not be stimulated in the same way by an action at common law?—*A.* An action at common law would be much more expensive and tedious; and I never had to bring an action at common law against a tenant, therefore I cannot say what the effect of that would be.

To Mr Curror.—I think the tenants under £50 are diminishing. One circumstance is affecting the size of farms very perceptibly. No tenant can now take a corn-farm, which will not afford a threshing-machine. Labour has risen so much in value, and the status and habits of the labourers are such, that no amount of money will induce a man to take a flail. I have lost very little by tenants. I never heard a complaint on the part of manure merchants. In all recent cases the tenant was able to pay all his debts. It is about twenty-eight years ago since there was a sale, and the rent in that case was small. If the law were abolished, it would make landlords watch their tenants more narrowly, and that would destroy the tenant's self-respect. In a remote district like ours we cannot obtain tenants of much capital, and, therefore, we have to take tenants of skill. Where tenants have been obliged to throw up their farms during the currency of the lease, they have generally been men of capital, but not men of skill—strangers to agriculture or to the county.

To Mr M'Lagan.—*Q.* Would not the result of the preference which you would give to the landlord be, that he would have a claim for three half-years' rents; the tenant enters at Whitsunday 1865, and the first half-year's rent for crop 1866 is paid at Candlemas, and the second half-year's at Lammas,—supposing that after Lammas 1866 the tenant becomes bankrupt, and you sequestrate him for the half-year's rent of crop 1866, he has entered into possession for another year at Whitsunday 1866, and you have a preferable claim for the rent of crop 1867?—*A.* Yes. *Q.* And as you think that the landlord has a preferable claim on each crop for the rent of that crop, the result, in the event of a tenant's bankruptcy, would be, that the landlord in your district would have a preferable claim for one and a half year's rent on two crops; while, where the farms are back-rented, the landlord would have a preferable claim for two years' rents on one crop, and hence the general creditors would be better off in the former case than in the latter?—*A.* That may be the operation, but if you can limit it to one year's rent, I am quite willing that that should be done. *Q.* The great advantage of your modification would be, that it would leave a much larger sum to divide among the creditors on account of the fore-rent?—*A.* Yes.

(96.) Mr JOHN KENNEDY.

To the Chairman.—I am proprietor of Kirkland and other lands in Dumfriesshire, worth about £1000 a year, and I was for many years proprietor of lands in Galloway, rented at about £2000 a year. I also farm land largely, and I farmed more largely previous to five years ago. I had three large farms in Dumfriesshire and Lanarkshire, extending to about 20,000 acres. I have been fifty-five years engaged in agricultural and grazing pursuits in Dumfriesshire, Galloway, Sutherlandshire, Ross-shire, Inverness-shire, Argyllshire, Lanarkshire, and in the counties of Dublin and Meath. The description of land which I have had under my occupation has been principally grazing lands, to the extent of 150,000 to 200,000 acres. I have generally paid from £6000 to £8000 a year of rent, including winterings, in Ross-shire. I have often paid John Kennedy.

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£2500 a year for turnips on low-country farms. The term of entry to all my farms is Whitsunday; and the terms of payment of rent are Martinmas and Whitsunday on the estates of the Duke of Buccleuch and Sir James Matheson; the 1st of March and 1st of October on Sir Charles Ross's estate; and the whole rent at Martinmas after entry on Mr Cameron of Lochiel's estate. I was in the practice of disposing of my yearly produce of sheep stock in the south country markets, and to the south country farmers in Dumfriesshire, Galloway, and elsewhere; but I have in a great measure for some years past left off doing so. I used to dispose of from £12,000 to £16,000 a year of my produce in that way. In doing so, I found very great inconvenience and suffered considerable loss from the preference afforded to the landlord by his right of hypothec, and which was considerably aggravated by the manner in which the landlord's rights were often carried out. In the vale of Nithsdale, and within twenty miles of Dumfries, I recollect of fifty cases of sequestrations, in twenty-five of which I was a considerable loser within the last thirty-five years, and of which I have a list. My claims were from £100 to £500 in each of these cases. I had sold sheep and cattle to the small country farmers; and, on their getting into arrear, the stock was seized by the landlord, and the ordinary creditors generally got only a small dividend. I am intimately acquainted with the Duke of Buccleuch's estate in Nithsdale. I have known upwards of thirty cases of hypothecation on that estate within the last thirty-five years, and I was a loser in sixteen of these cases. I claimed from £100 to £400 in each case, and in one £1000. These were my rankings. In almost every case the landlord got full payment; the other creditors generally got a very small dividend, and frequently nothing. My experience entitles me to say that, in most cases, the landlord's rights were asserted inconsiderately, and injuriously to the ordinary creditors. I think the present law of hypothec is most oppressive to ordinary creditors, and affords great facilities for inconsiderate abuse and mismanagement on the part of landlords and their agents. The time of carrying out hypothecation can be injudiciously selected, and the steps taken to secure the landlord may be inexpedient and oppressive, and would be unnecessary if the facilities which the ordinary creditors are entitled to were afforded them; while, under the security afforded by hypothecation, neither the landlord nor the agent runs any risk of loss. The landlord can, and often does, refuse to assign the hypothec when offered his rents and guarantee for the ensuing year's rent. The above preference has been in my experience frequently exercised to recover possession of the farm with all the tenant's improvements, with the view of reletting it at an advanced rent. I consider the law of hypothec of little consequence to a judicious landlord who selects his tenants with care; but it is a weapon in the hands of exacting landlords, and enables them, with partial impunity, to play off the offers of men they would not look at, except for the security of hypothec, against men of industry, skill, and capital, relying upon their right of hypothec in security for rents, which the tenants they have let the land to could never be expected to pay. *Q.* Do you give that as a theoretical opinion, or do you know any cases of landlords who have let their land trusting to the law of hypothec?—*A.* Yes, I do. *Q.* But have they let their land, trusting to the law of hypothec, to persons whom they would not trust otherwise?—*A.* I cannot say what is in the mind of a man letting a farm; but, judging from circumstances, I would say so. I have seen many landlords select a man, and put him in a farm, whom they would not have accepted but for the law of hypothec, because he was deficient in skill and capital, but principally in capital; and it was quite well known in the district that the man had not nearly sufficient capital for the farm. Tradesmen in the district give such a tenant credit to a limited extent. *Q.* Why do they do so if it is generally known that he has not capital?—*A.* They don't trust him to a great extent; but he makes his circle wider, and buys out of the district, where his circumstances are not so well known. The landlord ought to know a tenant's circumstances better than the general public, because he makes special inquiry. I consider that the right of hypothec is decidedly the opposite of beneficial to tenants. I cannot recollect one solitary instance of a tenant recovering from hypothecation without compounding with his ordinary creditors, or, under the protection of the landlord and his right of hypothec, remaining in the farm, and setting the ordinary creditors at defiance. It undermines any confidence the general public have in them; for their neighbours, from whom stock, manures, etc., are obtained, have a universal feeling of

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distrust of any tenant known to be subject to the exercise of hypothec at the instance of his landlord. It has also an injurious effect with bankers. It is a very rare occurrence that the position of farmers of £100 to £300 a year is arrived at by the class of small tenants in the northern counties called crofters. I cannot recollect one instance of it, unless the parties have previously gone south, and acquired a little capital and a due proportion of industry. In many instances the law of hypothec enables landlords to exact rents temporarily, far above the value of the land; and sometimes a good tenant will be forced to promise rent beyond his judgment, rather than quit and run the risk of placing himself in another suitable farm. But I have doubts if, in the long run, rents are permanently raised, or improvements carried out with the same spirit as if there was no hypothec. All landlords are not alike; but a considerable proportion select the highest rent, trusting to the security afforded by the hypothec, and thus a fictitious value is imparted to land by the existing law. I refer to a considerable number of the smaller proprietors in the country. Upon the whole there is decidedly a general feeling of distrust of a tenant supposed to be in arrear with his landlord. This feeling is more injurious to a small tenant with insufficient capital than if he was understood to be indebted to other creditors. Ordinary creditors have all an equal interest in carrying through an industrious tenant, for they all must share alike in his success, and, if he becomes bankrupt, all must suffer alike; whereas the landlord, with his hypothec security, and the expenses attending it, is paid in full, however recklessly the affairs have been managed. I do not mean to say that the abolition of the law would take away the possibility of distrust; but I think it would be far better for a tenant to get credit from others than his landlord, because it is one of the greatest dampers on a tenant's credit that he is in arrears to his landlord, and liable to the hypothec. It is my own practice, and has been for several years past, to decline to sell my stock to small farmers with insufficient capital upon credit; and I am aware that it is the feeling of others to do the same, and to avoid this risk by putting our stocks on these small farms to be grazed or fed at so much per head per month, which in a great measure deprives the small tenant of that portion of profit he ought to have, and in this way reduces him to be the mere manager of his small farm. That is a usual practice in Dumfriesshire and Galloway. Salesmen and capitalists practise it. That practice, to a very considerable extent, deprives the small tenant with insufficient capital of the profit which ought naturally to come to him. The abolition of the law of hypothec would tend to put all parties on an equal footing, and would no doubt increase materially the confidence which stock-breeders, manure merchants, and tradesmen of all kinds, would place in small and industrious tenants though deficient in capital. I think the hypothec tends to trammel the commercial transactions of the country, and to render it necessary that, previous to transactions with the class of small tenants alluded to, those making them furnishings should satisfy themselves that their rents have been all paid to their landlords. It tends very much to hinder the transactions of the small country farmers with those supplying them with stock, manures, etc. It is very much the practice in the south for stock-farmers to sell their year's produce of lambs, wool, sheep, etc., at home; and a buyer might be subjected to very considerable difficulty, trouble, and loss, should the landlord exercise the right of hypothec belonging to him. I have known many cases in which landlords have let farms at a higher rent which bankrupt tenants had improved. I think the advancement of agriculture in Scotland has taken place in spite of the law of hypothec, but not in consequence of it. I am aware that there is a way of securing the landlord in England, but it is not so stringent as the Scotch law. I think agriculture in Scotland would have prospered more if there had been no law of hypothec. *Q.* Do you think the landlords should have no security at all?—*A.* I think the law ought to be very much modified, and if any portion be retained at all, a very slight portion, giving the landlord the hypothec for six months of arrear enforceable for a month or two. I think the landlord does incur more responsibility than a common dealer selling a lot of sheep or cattle; but if he were allowed from thirty to sixty days at the end of each six months, I should think that sufficient. But I think it would be fair to the commercial world that he should be bound to use his right within a limited period after each half-year's rent was due. A landlord letting his land for nineteen years is not quite in the same position as a dealer selling from day to day; but, with the stringent leases that are now in use, he is not in a very different

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position. I would, however, give him that right if it was thought worth retaining; the whole being but a remnant of the old law of protection.

To Mr M'Lagan.—*Q.* Would you not extend the landlord's right till the next half-year's rent became due?—*A.* I would think that too long; and, in all cases where there has been a fair sale and fair payment, I would abolish the landlord's right of hypothec after payment and delivery. *Q.* Do you think sequestrations should be published.—*A.* If the time were limited, as I point out, it might be a question whether it was necessary to publish them, in respect that the publication would do the tenant great harm; but, in fairness to the commercial public, I think they ought to be published. The modification I have suggested is all the security which I think the landlord is entitled to. I think there should be no back-rents. With the terms of entry at Martinmas and Whitsunday, I think the rents ought to be paid in February and August. If a tenant of a grain-farm takes the crop at a valuation, he ought to have capital to pay, and then he will have the crop to pay his rent. If he does not do so, he ought to be able to pay his rent out of his capital. I apply that to farms of all sizes. Back-rent is not a judicious arrangement. I don't think that the credit which the existence of the law of hypothec enables the landlord to give to the tenant is of any benefit to him. I think it does the tenant more harm than good. It may put £100 or £150 of capital in his power, but it does him injury with bankers. I speak of small farmers. When farmers dealt with each other in Galloway and Dumfries, it used to be quite common for them to give bills, and that was the usual mode of transaction; but since the law of hypothec has been more generally acted upon, bankers require a man of capital to put his name upon the bill, because, from the landlord frequently taking everything a tenant has, bankers are very chary as to trusting them. *Q.* Then in that respect the law of hypothec has been an advantage?—*A.* It was not the law of hypothec that did that, but it has a great tendency to make no dividends, and therefore it has led bankers to be more cautious. The other day I had a talk with a banker, and asked if it was his habit to discount small farmers' bills when they exchange stock with one another. He said that bankers had given up that for a long time, greatly on account of the landlord's right of hypothec. *Q.* Then in that respect you think the law of hypothec has done good?—*A.* Scotland has improved in spite of the law of hypothec, but that law has destroyed the confidence of bankers in small tenants. I don't agree with those who say that fore-renting would be injurious to the smaller tenants in Argyllshire and Inverness-shire. *Q.* What would become of the small tenants who could not pay fore-rent?—*A.* I think they would be a great deal better giving their labour to capital, than drudging away as they do with no capital of their own, and in fact incapable of making an adequate rent out of their farms. It is a great mistake to suppose that a man of little capital, though he is industrious and skilful, can get on. He requires stock and manures to do anything on an arable farm, and a man of that kind has no means of employing his skill. *Q.* You think it would be better that they should fall back into the condition of farm-labourers?—*A.* I think it would be a great deal better if they had never emerged from it. *Q.* But what is your view as to what would take place now?—*A.* I have no hesitation in saying that those, who are a year and a half or two years behind with their landlord, cannot one day too soon go back to the position of employed labourers. *Q.* Or emigrate?—*A.* Very likely. But I hold there is a great number of people who, had they never attempted what they have attempted with insufficient capital, would have been in an infinitely better position. *Q.* Do you think it would be better that they should now fall back into the condition of labourers?—*A.* I think it would be a great deal better if they would attempt something else which they are fitted for.

To Mr Hope.—I have paid about £2500 a year for turnip wintering. *Q.* Has the law of hypothec had any effect in your dealings with tenants as to wintering?—*A.* My managers have been very careful; but I have run various risks. I have always understood that I was liable for the worth of the turnips, and I don't usually pay the tenant before consuming the turnips; but, where there has been any doubt, I have been frequently obliged to pay the tenant's rent, get an assignation of the landlord's right of hypothec, and pay myself from the tenant's effects. It is the business of my managers to inquire and make sure, as far as they can, of the position of tenants before I advance any money to them. *Q.* Do the landlords consider the stock itself liable to hypothecation?—*A.* That is a

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question not very well settled; but my opinion is that I am only liable for the agreed-on price of the wintering. The tenant is frequently getting advances to account; and, as I have in some years had 2000 acres of land taken in that way, my servants could not be asking at all the factors, and landlords, if the tenant's rent was paid; and I could not put much faith in asking the tenants themselves. I frequently pay the rent, and get an assignation; but, in Dumfries and Galloway, I could mention half a dozen cases where the landlord was paid his rent, and offered caution for the next year's rent, but the agent refused to give an assignation to the right of hypothec, and then the creditors have no way of protecting themselves, except the whole of the ordinary creditors of the tenant combine to satisfy the landlord. In one case the landlord wanted to put the tenant out, but the creditors combined, and the man paid 20s. a pound. I don't say that all landlords do that—far from it. There are many landlords that I have farmed under who would do nothing of the kind. A large proprietor in Nithsdale let a farm six years ago to a respectable tenant at £600; the tenant largely improved the farm, but involved himself with the public to the extent of £3000 to £4000, and became bankrupt. The landlord used his hypothec, and made void the lease, and let the farm the other day at £1065. The ordinary creditors in that case got 12s. 6d. a pound. I know other cases where the same proprietor has let land at a great increase of rent, owing to the improvements made by the tenants; and in no case have I known him, or those acting for him, give any portion of the surplus to the tenant's ordinary creditors. I hold farms in Ireland. The law is the same there as in England. *Q.* Whether would you prefer the law of distraint or the law of hypothec?—*A.* The law of distraint does not confer on the landlord anything like the extensive powers and the absolute security which the law of hypothec does. The landlord in England runs a very far greater risk with a bad tenant than a landlord in Scotland.

To the Chairman.—When a tenant fails in England, the landlord is glad to get his rent if he can, and get quit of the tenant; but the Scotch landlord has his hypothec, and will let the tenant go on as long as the public support him.

To Mr Curror.—I have a list of fifty sequestrations which have taken place within the last thirty years in Nithsdale, and within twenty miles of Dumfries, and thirty of these were on the estate of the Duke of Buccleuch. I was myself a creditor in sixteen of these cases.

To Mr M'Lagan.—*Q.* In your proposed modification of the law, would you suggest anything regarding taking turnips, or putting stock on other tenants' farms; would you exempt them from the landlord's hypothec?—*A.* If the landlord has a right of hypothec, he ought to have a right to the whole grass-maill. *Q.* You think it would be right to maintain that?—*A.* My own impression is that it would be very creditable to landlords to sweep away the law of hypothec altogether.

To Mr Hope.—It would never do to make all stock found on a farm liable to the right of hypothec.

To Mr Curror.—I think it is worthy of consideration, whether existing leases should not be exempted from any modification of the law.

Wednesday, March 22, 1864.

Present—

MR CAMPBELL SWINTON *in the Chair.*

HON. MR CARNEGIE. MR HOPE.
MR M'LAGAN. MR CURROR.

(97.) ARTHUR FORBES GORDON, ESQ.

Arthur Forbes Gordon.

To the Chairman.—I am a landed proprietor in Aberdeenshire, and have been for many years commissioner over several estates in that county. The aggregate rental of the estates under my charge, including my own estate, is between

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£13,000 and £14,000, with about 286 tenants—rents varying from £5 to £200 and upwards, the majority under £50. I consider the law of hypothec advantageous both to landlord and tenant. It is the simplest and most convenient way, with ease to the tenant, of giving security to the landlord, while it enables the tenant to lay out capital on the farm; and I conceive the agricultural prosperity of Aberdeenshire to be very much owing to the law of hypothec and back-rents. Farms in Aberdeenshire are generally small farms, the average not exceeding £50 a year. I do not think there are over 300 farms in the county rented at £200 a year, and of that number not forty-eight are rented at £300 and below £400, and thirteen rented for £400 and upwards, by tenant-farmers. This is taken from the last published valuation roll, 1859-60. There may be rises and changes since, but it will be sufficiently accurate for my purpose. On a property I am well acquainted with, yielding a rental upwards of £9000 a year, and with some 210 tenants, there are only thirty-four paying a rent of from £50 to £100 a year, sixteen from £100 and upwards, and only two paying upwards of £200 a year—the highest being £395. On another estate of upwards of £2000 rental, and thirty tenants, only sixteen pay £50 and upwards—the highest being £335; while fourteen pay rents below £50. I mention this, which I conceive to be a fair specimen of the county, to show the general size of the holdings. They all hold leases for nineteen years, except the very small possessions, and they hold virtually from year to year; but as long as they are industrious and respectable they are not disturbed. The terms of entry vary, either Whitsunday or Martinmas; but there is no fixed term on the estates in question, nor do I think there is on other estates generally. If a tenant enters at, say, Whitsunday 1865, he does not pay rent until Martinmas 1866—eighteen months after; and in some cases the rent is not asked until Candlemas—February following. As the local terms in Aberdeen are 20th June and 20th December, rents are never collected much before that time. Farm-servants in Aberdeenshire almost entirely consist of sons of farmers. All of them look forward to rising in the social scale, and becoming farmers themselves. They generally succeed, by dint of great industry and frugality, in saving and laying by a sufficient sum to enable them to rent and stock a farm, larger or smaller, according to their means. I have known many instances of their taking larger farms on the expiry of their first lease. By this training, either in service or on their fathers' farms, where they work as servants, they become practical agriculturists, having generally a good knowledge of farming operations and stock, and being quite qualified to manage a farm. The local agricultural associations which exist in most parishes and districts do much to promote a friendly spirit of emulation and rivalry, tending greatly to the improvement of stock and agriculture generally, and to excellency in ploughing and turnip husbandry. Every farmer at these local shows tries and hopes to beat 'Tillyfour,' or some other noted breeder and farmer in the district; and although he may not often succeed, still the effort to do so is productive of much good, and the class of stock possessed by these small farmers in consequence is often of a very superior description. The farmers and their servants take great interest in these shows and competitions. Under the present system of back-rents, large tracts of waste land in the county have been reclaimed, and rendered productive and remunerative, by this class of tenants, which otherwise, if fore-rent had been required, would in all probability be still barren. A good deal of emigration has of late years taken place from the agricultural districts, and labour in consequence is much dearer and scarcer than formerly. Were the law altered, I consider it would induce more emigration. The hard-working and industrious class of servants being unable to get farms, which they look forward to doing under the present system, would in all probability emigrate. Many valuable men would thus be lost to the country, and much land would, I think, be left unimproved. The farmers as a body could not pay fore-rents, and the landlord would not let his land without security, which he could get in no way, so far as I can see, so simply as by the law of hypothec. I do not conceive that the law, as it now stands, raises the rent unduly. Whatever gives greater ease and security will increase the value; but a landlord is not bound to take the highest offerer. He would be short-sighted and foolish to do so, unless he found him equal in qualification and means and agricultural experience to the other offerers. I by no means consider mere capital as the chief consideration in choosing a tenant. I do not generally advertise farms out of lease. I usually settle with tenants for renewal of leases, without advertising their farms. I have no diffi-

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culty in settling with the old tenants, who are generally most anxious to renew, and in getting a good rent. Very few changes have taken place among the tenantry on the estates I am chiefly connected with. Many families have remained on the same estate, and on the same farm, for generations. They are generally very industrious and intelligent. Hitherto there has always been a rise of rent on reletting a farm; in some cases very considerable, and given freely by the old tenant. This arises partly from the great improvement in agriculture, and partly from the extent of waste land improved since the last nineteen years' lease commenced.

To Mr Hope.—In some instances the landlord has paid part of the expense of that improvement; but generally the great bulk of the land has been taken in by the tenant. The drainage loan was greatly taken advantage of, and the landlord in many cases modifies the interest according to the circumstances of the tenant. The landlord very often gives a certain quantity of lime to the tenant when he is taking in waste land.

To the Chairman.—I do not think the law of hypothec has tended to give the landlord an inferior class of tenantry, or to cause undue competition. The landlord does not pit one offerer against another; and a good practical agriculturist will not generally offer more than he considers a fair rent—such as he can make a living by. It is the landlord's own fault if he takes a set of speculators for tenants. He has always (at least my experience has found it so) plenty of good, industrious men of experience and sufficient capital to choose from; and if he is tempted by a higher offer to accept more than the farm is really worth, and takes the wrong man, he has himself alone to blame, not the law of hypothec, and does not in my opinion deserve much commiseration. But I scarcely think any landlord would knowingly let his farm at an over-rent; if he did, he must suffer for it, even with the law of hypothec, by the deterioration of his farm. I have found it necessary at times to throw farms open to the public by advertising them, in some cases of tenants not renewing, or leaving for larger farms; but these cases are comparatively rare. I see no objections, however, in such circumstances, to putting a farm into the market. My own feeling and practice are to give the old tenant the preference, if he is a good man. In letting to a new man I am most particular in inquiries as to the tenant's means, character, and experience as a farmer, and think proprietors and factors generally are so. I would not let a farm to a tenant unless he showed to my satisfaction that he had sufficient means to stock and work the farm. I never found any difficulty in getting good practical men to take any farms which were out of lease, and, if I required it, always got readily good caution for the proper stocking of the farm, and payment of the first year's rent: no more would usually be given; and I would not approve of more, or of a general system of caution. I never had to take legal measures to recover rent against a tenant. Rents are generally very well paid in the county. As far as my experience goes, I find rents paid to a day, and little or no arrears. In letting a farm I never consider the law of hypothec as a means of getting a higher rent. I do not think that tenants fail often in Aberdeenshire; certainly not if they stick to their legitimate business, and do not speculate as cattle-coupers or grain-dealers. They do not, I think, fail oftener, if so often, as men engaged in mercantile pursuits. I have had two or three instances, in the course of a number of years, of tenants failing in circumstances, but it was not from their farms being over-rented, nor from having begun with too little capital; and in each case the farms have been relet at a considerable rise. In no instance did the landlord take legal steps. The friends of the tenant came forward, paid the rents as they fell due, and saw that the farms were properly worked. It appears only fair that the landlord should have some security for his rent. He contributes, and gives out of his own personal control, a valuable subject for a period of years; and it is as just and fair that he should have security for the payment of his rent, as that the money-lender should have the security of the land for the payment of the interest of the money he lends. I do not see why the tenant's creditor should have any right to the landlord's rent or interest, so to speak, of the value or capital which he, the landlord, contributes. The present law, by giving that just and reasonable security, and which in Aberdeenshire has been productive of no hardship whatever, has enabled a body of most industrious, hardworking tenantry to take farms, and improve an amount of barren land which otherwise they could not have done, and which would now have been most probably waste. I think

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they have generally prospered, and have brought up families in comfort and respectability, and put them out in the world,—some as farmers, some as tradesmen. They all try to better themselves. Many of them have got college education; and I know several sons of these farmers who are now clergymen and parochial schoolmasters. The condition of the farmers in Aberdeenshire is certainly much better than it was twenty or thirty years ago; they are better housed, and live better. A great deal more butcher meat is consumed. I know several instances of farmers on farms paying £100 a year or less, setting up their sons in farms, and stocking them for them. I know an instance of a farmer paying £80 a year of rent, who has placed two sons on neighbouring farms, and fully stocked them. He has recently applied for another farm for a third son, and is about again to renew his own lease. Another paying a rent of £118 has taken and stocked an adjoining farm for a son, at a rent of £112. I could adduce many other similar instances where farmers, all beginning from small means, have placed their sons—more than one son—in farms, and stocked them, and all of them doing well and thriving. They could not have done this except for the law of hypothec and postponed rents. I may mention one instance of hardworking perseverance and industry of a farmer who now rents a farm of £60 a year, and who began with very small means, at a rent of £40; but, by his industry and frugality and good management, has prospered in his farm, and educated one son at college, who now holds Her Majesty's commission as a surgeon in the army; his other son will likely succeed to the farm, and one of his daughters is a teacher of a female school. These are only a few instances out of many of that class which I could mention. I do not think the present law interferes in any way with reasonable accommodation to tenants from bankers. They get ample accommodation as it is; sometimes too much. The banker looks to the security the farmer has to offer for the advance; and, were the law of hypothec done away with, I do not see that it would advantage the tenant in his transactions with the bank. The tenant's own means are generally well known to the banker, and he looks to the security the tenant offers. A large quantity of bones, guano, and artificial manure is consumed in the county. A tenant pays probably from one-half to two-thirds of the sum he is rented for in manure yearly. I am not aware that tenants had any difficulty in getting from the sellers of manures what they required for their farms, and never heard of any particular loss the venders experienced in consequence of the law, more than the occasional risk which all merchants must run in dealing with the public. They are aware that the landlord has the right of hypothec, and ought to consider that in their transactions with the tenant. Moreover, the tenant's means are well known generally to the dealers and throughout the district, so that they are quite aware of any risk they run. They do not sell their manures out of pure philanthropy. Some of the companies in Aberdeenshire must have had a prosperous business, in spite of all their so-called grievances, otherwise they could not have paid the large dividends I am given to understand some of them lately did. I can see no reason or justice why the law should be altered to protect them more than any other dealers. It appears to me a simple mercantile transaction, and they can refuse to give credit if they have doubts of their man. If the law was abolished, a tenant would require more capital than he generally has at present, as the rent would necessarily be forehand. He would require to have sufficient capital both to stock his farm and pay a year's rent before getting a crop. Some of the farmers now renting farms might do so, but not the majority of those who are now looking forward to take farms. I imagine few of those men would have sufficient capital to do justice to the farm and pay fore-rent. The landlord would probably require security as well as fore-rent, if the law was abolished. The postponed rent is equivalent to so much money lent to the farmer by the landlord, and enables him to expend more upon his farm. He is therefore so much richer, and has the landlord for his creditor in place of the bank or a third party, which is better for the tenant. The landlord does not speculate with his farm. He lends the land as money to the tenant, and is content with a small interest with good security; and the tenant looks upon the rent as due to the landlord in the first instance, and not to himself at all. If the law was abolished, I think a considerable amount of land, especially in the higher districts of the county, might be thrown out of cultivation. Men of larger capital than formerly are now required as tenants, partly owing to the

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high price of stock and labour, and the higher style of farming now required to enable them to cope with their neighbours, and also to the farms being in many districts increased in size. The landlord does not get much, if any, increase of rent, in consequence of uniting the farms; but there is a great saving in farm buildings, which is often an inducement to do away with smaller farms. This, I think, ought to be done very cautiously. I allude to the conversion of the very small farms or crofts into two-horse and four-horse farms. All small farms should not be abolished, otherwise you will do away with a most useful class of labourers and farmers, which would be a serious loss to the country. It is somewhat difficult to define exactly the amount of capital a tenant should have on entering a farm in Aberdeenshire. Some say from £8 to £10 an acre. Perhaps a little less might do, and I think it would, according to circumstances and the prices at the time. I conceive from sixty or seventy to 250 acres very suitable farms for the district. Formerly the buildings, which were generally of an inferior description, had been, in most instances, erected by and belonged to the tenant, and the entering tenant paid the value to the outgoing tenant. Of late years a great change and improvement has taken place in farm buildings, especially in the superior accommodation required for rearing and fattening stock; and, as new leases are entered into, the buildings are in most instances becoming the property of the landlord, the tenant maintaining them in order during his lease. The tenant is thus enabled to expend his capital on the farm, in place of paying a considerable sum to the outgoing tenant for houses and fences before he could enter upon the farm. By the improved system, the tenant having little pecuniary interest in the buildings which belong to the landlord, it would seem more necessary for the landlord to have the security of hypothec. In letting a farm a landlord does not consider the law of hypothec, or look to have to sequestrate a tenant; he looks for the best man he can find. A great many farmers, now in good circumstances, and well-known agriculturists, have begun from very small means, with little more than enough to stock the farm, and a good character and stout person, and are now doing well and thriving, and in many instances are able and ready to take larger farms. I consider industry and labour go a long way to make up for want of much capital; and I would not object to let a farm to a practical man and good farmer, such as I have described, under the present law, if he had sufficient to stock the farm properly. I do not think it follows that, because a man has capital—perhaps twice the capital required to work and stock his farms—he is necessarily to make a good farmer, or to do well. Agriculture is a science, and, like other trades and professions, requires knowledge of the business, energy, and perseverance. One man will succeed where another fails under circumstances apparently more favourable; but, so far as my experience goes, I do not think agriculturists fail oftener, or so often, perhaps, as men following other pursuits. I do not recollect any instance of a farm being given up during the currency of the lease, from the tenant being unable to get on. One advantage of the present law is, that it enables a landlord to assist an industrious tenant by giving him indulgence. I never heard a tenant make a complaint of the law as it now stands, and never heard of a case of hardship under the present law. Since the present agitation against the law began, I have spoken to tenants on the subject. None of them made any objections, or conceived they had any hardship. They did not seem to think much about it in any way. I believe they were all aware of the law, although all of them might not have understood the details. It would appear to me impolitic and unjust to do away with existing leases or bargains entered into on the strength of the law. It would, I conceive, create great confusion and hardship, and unsettle all monetary arrangements. I have never heard of a case of hardship under the law as it now stands. I should be sorry to see the law done away with; and I am not prepared to advocate any radical change in a law, which has worked well for both landlord and tenant for so long a period, although it might perhaps be modified as to following the crop. Grain sold in open market by sample, and delivered and paid for, might be placed on the same footing as that sold in bulk. I would see no objection to that, if it were a *bonâ fide* sale. Aberdeen is not a bulk market. A good deal has been said as to publishing sequestrations in the *Gazette*. I do not see much advantage to be gained by this by the landlord; whereas it might be very prejudicial to the after-career of the unfortunate tenant. I have, however, no practical experience as to this, never having had occasion to sequestrate a tenant, and have not considered the point. I am somewhat at a loss to

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understand any reasonable or unselfish cause for the agitation which has been raised against a law which, I believe, has been of much benefit both to landlord and tenant. It appears to me to be founded upon both justice and equity; and it has enabled a large body of very intelligent, hardworking, and respectable men to take farms and thrive upon them. I should regret very much to see any change which would injure such a numerous and respectable body as the farmers I have alluded to; and I think that any radical change of the present law would unquestionably involve much mischief and hardship, both to landlord and tenant.

To Mr Carnegie.—Generally speaking the outgoing tenant is bound to give his last crop to the incoming tenant at the fiars' prices of the year. That is not the case on all farms; but generally speaking it is the case, and I always insert the clause in my leases. I am not acquainted with any districts in which fore-rents are paid.

To Mr Hope.—The state of the tenantry on the estates I am connected with is, as a whole, very satisfactory. I never took any law proceedings against a tenant for recovery of rent. *Q.* Don't you think the law of hypothec is an ideal security?—*A.* It may be, so far; but it is a security to the landlord, and the tenant knows that the landlord has it, which, I have no doubt, makes him more careful. So far as I know, tenants pay their other debts as well, though the people with whom they deal have no hypothec. The indulgence to tenants of which I spoke was the indulgence of a postponed rent. When farms are advertised, we always have three or four good men as offerers, and they are always practical agriculturists. In my district, so far as I know, we have no men coming from the towns to take farms. If fore-rents had been exacted, I think it probable that a greater portion of land would have remained barren—that is, that less improvement would have taken place in the county.

To Mr Curror.—When a new tenant takes the crop of the outgoing tenant, he generally pays half of it about Martinmas, and the other half when the fiars' prices are struck. The small farms in the county are rather diminishing, because landlords are uniting very small farms with larger farms, though not what would be called large farms in this part of the country. I mean into farms paying £100 or £120 of rent, instead of £20 or £30. Hitherto, on many estates, the tenants have erected the houses and steadings almost entirely; but they don't do so now.

To Mr M'Lagan.—There is a very kindly relation subsisting between landlords and tenants in Aberdeenshire. Until the present agitation commenced I never thought very much about the law of hypothec, and never heard a tenant speak on the subject. If the law were abolished, I don't say that there would be a hostile feeling between landlord and tenant; but the landlord would require to look after the tenant more than he does at present. I am not prepared to say that it would alter the feeling between them. I would not say that the competition for farms in Aberdeenshire has arisen from the law of hypothec. So far as I have seen, both landlords and those acting for them exercise due caution in the selection of tenants. I should not approve of any change in the law which would compel landlords to exercise their right of hypothec each half-year, or lose it. Nor would I be prepared to make any change in the time during which the landlord may exercise his right,—not even with reference to the crop. I am in favour of the law continuing as it is, except with reference to *bonâ fide* sales of grain. I have not thought much about the publication of sequestrations, but it certainly would appear to me a hardship upon an unfortunate tenant. The publication might prevent him from recovering himself, and going on well afterwards. That, however, is a subject to which I have not given my consideration. The rents are paid to a day, so far as I am concerned. There are cases occasionally where the landlord allows a half-year's rent to lie over till the next half-year; but these are very rare, and at this moment I have no arrears, either on my own property or on any of the properties which I manage.

To Mr Carnegie.—There are cases in which turnips are let; but, if a farmer is a prosperous man, he generally consumes them himself, and sometimes takes additional turnips elsewhere. If a farmer sends his cattle to another man's farm to eat up his turnips, I should say that what they consumed should be regarded as a *bonâ fide* sale to the farmer.

To Mr Hope.—As far as I know, sheep are not wintered much on turnips in Aberdeenshire, as the general practice, but chiefly on grass or foggage. They are brought down to the low country foggage during the storm in the hills.

To the Chairman.—I should conceive the person who sends them would be liable to the operation of the landlord's hypothec to the extent of the rent he pays for the foggage; but certainly not for the whole rent of the farm. Arthur Forbes Gordon.

To Mr Curror.—I never heard of a case in which any party was called on to pay twice in such circumstances.

(98.) Mr PETER M'LAGAN.

To the Chairman.—I am factor for the Duke of Montrose, and reside at Catter in Dumbartonshire. I myself farm very little; all I have is in grass. I have had the management of farms. I have been a factor for upwards of twenty years in Perthshire, Aberdeenshire, Stirlingshire, and Dumbartonshire. I have been factor for the Duke of Montrose for upwards of twelve months. I know the state of agriculture in Aberdeenshire and Perthshire, but I am not so well acquainted with Stirling and Dumbarton. On the estate of the Duke of Montrose which I manage in Stirlingshire, Perthshire, and Dumbartonshire, there are upwards of 200 tenants, paying a rental of upwards of £20,000. The rents vary from £3 to close upon £2080. Generally we don't grant leases for farms under £10 rent; but, for farms above that, we generally do grant leases. The term of entry on the Duke of Montrose's property is to the arable land at Martinmas, and to the grass land at the Whitsunday following; and the rents are paid at Martinmas and Whitsunday after reaping the crop. There may be a few exceptions, but that is the general rule on the Duke's estate, and I believe it is the rule in Stirlingshire. A great many of our farms are altogether pasture. Our largest farms are almost entirely pastoral; but some of them are partly pasture and partly arable. Peter M'Lagan.

To Mr Hope.—There is one large farm called The Corrie, which is let at £800, and the entry to which is at Whitsunday. The first half-year's rent is payable at Martinmas, and the last half at Whitsunday following, so that the tenant is a year in possession before he pays the whole of his first year's rent. It is a sheep-farm.

To the Chairman.—I never heard any of the farmers in my district talk about the law of hypothec; it is a thing we know nothing about. Even since the appointment of this Commission, I have only heard one or two talk about it. I think it is a good law, with a little modification. I am not aware of any class of the community on whom it operates harshly. I have only had five sequestrations in all my experience, and only two sales. In these cases the general creditors of the tenants were benefited, because it prevented the tenant from disposing of his stock otherwise, and the creditors got full justice after the proprietor was settled with. In one of the cases one set of creditors were paid in full after satisfying the proprietor; in the other case, the loss to the general creditors was severe.

To Mr Hope.—The tenant in that case was removing his stock, but was prevented from doing so.

To Mr Curror.—These were both small sequestrations. The rent of the one farm was £50, and the other £35. The landlord lost nothing in either case. In one of the cases the dividend to the general creditors was 2s. 6d. a pound.

To the Chairman.—In the locality in which I live, the tenants don't use enough of artificial manures, and their dealings with manure merchants are not large; they are principally for lime. I was factor on Lord Aberdeen's property in Aberdeenshire for two years, and I was also factor for fifteen years on the Invercauld property. In my opinion the law of hypothec has given the tenants of Aberdeenshire great assistance, and many have been able to take farms who could not otherwise have done so. Fore-rents would have been required but for the law of hypothec, and many tenants there could not have paid fore-rents. I am not very well acquainted yet with the tenants on the Duke of Montrose's estate in Stirlingshire, but I suspect a good many of them would not be able to pay fore-rents. If fore-rents were exacted on Lord Aberdeen's estate and the Invercauld estate, I believe that at least half of the tenants would have to change their position altogether. They would require to give up farming, or to take smaller possessions, at perhaps half of their present rents. Those now occupying those smaller possessions would be put out altogether. In the properties which I managed in Aberdeenshire, the farms when out of lease

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were valued, and offered to the tenants at a reasonable rent, and they were invariably taken. There were very few new men from other professions, or from other parts of the country, and as a general rule the same families had occupied these farms for a long time. So far as I am able to judge, they were a prosperous set of tenants. They educated their families, and put out their sons to farmers; and when I gave up the management of the Invercauld estate, after having been there for fifteen years, there was not a single farthing of arrears on the property. The tenants were very industrious; but my opinion is that they had not capital to pay fore-rent. They were a very suitable class of tenants for these farms; more suitable than men of large capital, but of less industrious habits.

To Mr M'Lagan.—I don't think the proprietor should have the power of following grain or stock, or anything else, once it is fairly sold, the money paid, and the article removed. I think it is desirable and necessary that sequestrations should be published. I would not be inclined to shorten the time which the landlord has at present for exercising his right of hypothec. I should not approve of compelling the landlord to sequestrate for each half-year's rent, or lose his right; that would be rather severe for tenants. I have never considered whether stock sent to feed on another tenant's farm should be exempted from the operation of the law of hypothec. On Lord Aberdeen's property, I should say that the small holdings are five times the number of the large holdings. If the law were abolished, the factor would require to insist on fore-rent; and, in my opinion, every one of these small farmers would be set adrift. There are no fore-rents paid on Lord Aberdeen's estate. The number of the small farms on that estate is being greatly diminished; and I think it would be an advantage to make larger farms. *Q.* Would you be satisfied with the fore-rent as security—that is, the tenant entering at Martinmas, and paying his first half-year's rent at Whitsunday?—*A.* The landlord might think that sufficient security; but, as an agent, I would not recommend it. I would require not only to get forehanded rents, but security for the proper fulfilment of all the engagements of the tenant. By forehanded rents I mean prepayment of rent; and I would insist besides on collateral security for the conditions of the lease being properly fulfilled. That would lead to great inconvenience to tenants generally; but neither the proprietor nor the factor would be safe without it. My opinion is that the law has worked well, and that agriculture has thriven, owing to the law, in all the districts where I have been.

To Mr Curror.—To the best of my recollection I have only had five sequestrations on all the estates I have had to do with, and two sales. Latterly the rents were very well paid; but there was great difficulty in collecting them in the years from 1843 to 1848. I gave indulgence to the tenants at that time. They were carefully selected, and I knew them to be honest men; and, as the years were very bad, they got indulgence to a certain extent. The proprietor lost nothing by giving that indulgence. I would not have given the same indulgence without the law of hypothec. The indulgence given went beyond the limit allowed by law, so that the landlord might have suffered. I don't think the improvement of the land by the tenant is sufficient security to the landlord without the hypothec. I would not recommend a landlord to let his land at a back-rent, even to an industrious man who had paid his rent regularly, without the law of hypothec.

To Mr Hope.—If the law were abolished, my opinion is that factors should insist on prepaid rents, and also on security for the fulfilment of the tenant's engagements. On the Cromar part of the Invercauld estates, a great deal was done by the small tenants in bringing in land from the heather. The proprietor drained the ground, and gave a certain quantity of lime. The tenant got the ground at a nominal rent,—6d. or 1s. an acre for nineteen years. It requires about £1000 to stock a £100 farm in Aberdeenshire. That would be good security to the landlord if the tenant confined himself to his farm; but they are fond of speculating otherwise. It is not on their farms that they lose money.

To Mr Carnegie.—I am not acquainted with any estates on which the farms are fore-rented. If there was no law of hypothec, I could not recommend a landlord to give indulgence to his tenants in bad years. The instance in which that was done in 1843 to 1848 was quite an exceptional case.

To Mr Hope.—The tenants paid all the arrears, except in the two cases of

sequestration that I have mentioned. The indulgence we gave went so far that the landlord's right of hypothec was lost. Peter M'Lagan.

To Mr M'Lagan.—There are not many accommodation bills got from banks by tenants in the districts I know.

(99.) Mr JAMES CHRISTIE.

To the Chairman.—I began farming in 1823, and farmed for twenty-six years in Fifeshire. I then went to the county of Durham as a land-agent for three years. I then managed land for three years in the county of Dumbarton; after which I succeeded to an estate in Fife in 1858, and I have farmed it since. It is about 200 imperial acres. The leading men in our neighbourhood are rather inclined to let the law of hypothec stand as it is, with some little modification. I think it is beneficial both to the landlords and tenants. If the law were abolished, I think farms would be fore-rented. Landlords would not give the same indulgence as to payment of rent, as they do at present; and, as to draining and Government money, landlords would not be inclined to be responsible for it without the security of the law of hypothec. Some farmers in my neighbourhood would be able to pay fore-rents, but some would not. The greater proportion would not; and yet they are flourishing men, and do very well as farmers. That applies to farms of all sizes, and we have farms of all sizes in our district—ranging from £20 to about £1000. I hardly ever knew of a sequestration in our district. I don't recollect of one at the present moment. For some time past there has been a good deal of competition for farms among farmers, as well as people coming from other professions. Those from other professions generally offer higher rents than the practical agriculturists do; but I don't think they succeed or do much good; they want skill. I don't think that in my neighbourhood the security, that the landlords have by the law of hypothec, has a tendency to make them prefer a man without sufficient skill. The landlords in my neighbourhood in general are very cautious in the men they select, and they don't take the highest bidder. The term of entry in my district is Martinmas to the whole farm. The first year's rent is payable at Candlemas and Lammas after reaping, and perhaps a month is given beyond these terms. I think these are the best terms for the payment of rent. In some parts of our district a good deal of artificial manure is used. I don't know any manure merchants who have lost anything in our neighbourhood, and I speak of a district extending to about ten miles in the north or middle of Fife. My farm is three miles from Falkland. *Q.* Do you think the landlord in England or Scotland is best secured in the payment of his rent?—*A.* If you take the estates on which there are yearly tenants, I think the landlord in England is as well secured as the landlord in Scotland. He does not require to use distress if he or his agent looks after his tenants, because he can get quit of them at any time by merely giving six months' notice. I don't think the farmers of Scotland have any reason to complain of being under a more stringent law than those of England. The landlords in England look stringently after their tenants for their own safety. If the English system were adopted in Scotland, it would make a great change to the landlords. It would lead to the abolition of leases, and would cause the landlord more expense. On the estate that I was on in England, and on the estates in the neighbourhood, the landlord kept up the steading, outside fences, and gates, and looked after the tenants to see that they worked the farm according to agreement. I think the Scotch system of leases is much more beneficial to the general interests of agriculture than the English system. James Christie.

To Mr Hope.—Leases enhance rents a little, because the tenant has more power over his land than he has without a lease.

To the Chairman.—I think the law of Scotland as it stands has operated beneficially for the interests of agriculture. I think *bonâ fide* sales should be protected where delivery is given and the money paid; but where a sale is made, and the grain kept on the farm, I think it should still be under the law of hypothec. I don't think it would make very much difference to the general community whether sequestrations were published or not; they are generally known in the neighbourhood.

To Mr Carnegie.—There were no leases in the immediate neighbourhood of where I was in England.

James Christie.

To the Chairman.—The evidence which I have given applies to Dumbartonshire as well as Fife. Farms in Dumbarton are mostly small farms, and the law of hypothec is more necessary there than in the case of large farms.

To Mr Hope.—If the law were abolished, I think landlords would demand either fore-rents or cautionry. *Q.* If the tenant had a sufficient sum to stock the farm to the amount of eight or ten times the rent, would that not be a sufficient security?—*A.* If you had that stock upon the farm, it would be sufficient security; but there are few farms upon which there is that amount of stock. I don't think landlords would get the same rents if they asked fore-rents. I think rents might fall a little. In general I think tenants are anxious to pay their rents. If the law were abolished, I don't think landlords would be inclined to be responsible for Government money, because other creditors might come in and sequestrate before them. I don't recollect any case in which the expenditure of Government money has not been beneficial; and, suppose the tenant were to leave the farm the moment it was expended, the improvements would remain there, but the landlord would lose his rent if the tenant's effects were sold by other creditors, and he would have the Government money to meet.

To Mr Curror.—In the district of England where I was, the tenant had a claim for improvements; for draining, he had a claim for something like two years, but the second year the right was so far exhausted; there was no claim for guano. There have not been many tenants coming to Fifeshire from other professions. I think there is not much difference between the rents they offer and the rents which practical farmers offer.

To Mr M'Lagan.—The tenant's capital is not always a security for his rent, because it may get exhausted.

(100.) Mr JOHN BOGIE.

John Bogie.

To the Chairman.—I am tenant of Balcanquhal, in the north-west district of Fifeshire. I have three farms extending to about 1000 imperial acres, part of which belongs to myself. My rent is from £900 to £1000. The term of entry is the same to all the farms, namely, Martinmas to the whole; the rent is paid at Candlemas and Lammas. They are all ploughed except about fifty acres. I have been upwards of forty years engaged in the practice of agriculture, and always in the same farm. I never heard much about the law of hypothec from the tenantry in my neighbourhood. I think it has been beneficial to agriculture in Scotland generally. By the system of postponed rents it has enabled a person with a moderate capital to take a farm, which he otherwise could not have done. If the law were abolished, I am decidedly of opinion that fore-rents would be introduced. There is sometimes great competition for farms in my district. That competition is generally among farmers, but sometimes a stranger comes in from other professions. We don't think that men from other professions make good farmers. Generally, I think, the tendency is for the landlords to take the highest offer, if they think the man has plenty of capital; but I think that feeling will give way by and by, because unpractical men don't stand out long in such times as the present, and the landlord will learn that by experience. There have been very few sequestrations in my neighbourhood. There is scarcely ever such a thing heard of. I don't remember any but one or two small cases, and these were men who began with no capital. There have not been very many changes among the tenantry. One or two have retired from farming, and new people have come in on that account. Sometimes the farms in our district are advertised, and sometimes they are valued.

To Mr Hope.—I am not aware that there are any estates that make a rule of advertising. When the old tenant wants the farm he generally gets the preference, if he is worth keeping; and when he does not wish it, it is advertised, and then the landlords take the best man they can find.

To the Chairman.—I don't think the landlords are generally speaking careless in the selection of their tenants. One modification of the law which I would suggest is as to the following of grain after being sold. I think that part of the law should be abolished; but I have not heard of many such cases as the recent Ayrshire case. A sale by sample should be put on the same footing as a sale by bulk. I never heard of farmers selling on their farms without going to market.

To Mr Hope.—We sell seed-corn; but we do so in the market.

John Bogie.

To Mr M'Lagan.—I don't see any use for the publication of sequestrations.

To the Chairman.—I don't think it would be any protection to the public. The public soon find out a man's circumstances.

To Mr M'Lagan.—I object to their publication, because, if you put a man in the *Gazette*, he is finished for ever. A farmer may get into bad circumstances by some accident; he may lose money by a friend, or in many other ways. He may be improving his farm, and run short of cash, and may be sequestrated; but if you put him in the *Gazette* he is done for; whereas, if he gets a little time, he probably rights himself. I have known two or three instances of that kind. I would not approve of compelling the landlord to sequestrate for each half-year's rent, or lose his right. On one occasion I assisted a farmer with seed-corn. He had got into bad circumstances, and I did not know that. I got nothing for my seed-corn, and the landlord got his rent. I thought that a hard case, because, if he had not got seed-corn, the landlord could not have got his rent; but that does not alter my opinion of the law. *Q.* You stated the case of a tenant who had no capital; how did he get into his farm?—*A.* I don't know. That landlord is not very particular if he gets an offer of a pretty sharp rent; but we don't consider him a fair specimen of a landlord. I think he is acting against his own interest. Within a few years he has had three tenants in one farm, and that must very much deteriorate the land, even though the promised rent is paid. That is an exceptional case. Farmers are generally in a healthy state in our district. I don't believe banks are prevented giving credit by the law of hypothec.

To Mr Curror.—I cannot tell whether the landlord got his rent regularly paid by the three tenants who were in the one farm within a few years. I don't think the public lost much. It was a small farm, about £150 rent. It takes much more money to stock a farm now with sheep and cattle than it did formerly. I lay out about £600 a year on guano and feeding-stuffs. That is a good security to the landlord; and he has another security upon stock-farms, because we have never less than three rents of stock on our farms, and the landlord cannot be far wrong there. It is different in East Lothian, where they have corn and flying stock. If a man has a breeding stock of sheep and cattle on his farm, the landlord cannot be in a very unsafe state. It would be a matter of calculation with the landlords whether they would take fore-rents if the law were abolished, or give longer credit and get a little higher rent. *Q.* Would there be any difficulty in letting the land about your neighbourhood if it were fore-rented?—*A.* I think there would be more difficulty than there was three or four years ago: land was too much run upon at that time.

To Mr Hope.—A farm of £200 of rent will take £7 or £8 an acre to stock it. In Fife, Roxburgh, and Berwick, where there is a large amount of stock in the farms, I think the landlord would be safe without fore-rent; but it would be difficult on corn lands. I think one advantage of the law of hypothec is, that it enables a man with small capital to take a farm which he could not otherwise have done. I don't see that that makes a man with capital pay more. I think it is better for him to have his capital at his bank account than in the hands of his landlord. If he paid a fore-rent he could take the farm 5 per cent. cheaper. I don't think the landlord gets more than the interest of the money in addition. I believe people take farms without thinking of the law of hypothec. I have had three leases, and I never thought of it.

To the Chairman.—I think that joiners and blacksmiths, and such small tradesmen, might have a preference along with landlords and farm-servants. I would not extend that to machine-makers, though I have not thought much about that. I would certainly not extend the preference to guano merchants; they can look after themselves.

To Mr Hope.—I don't think that guano and seed-corn are on the same footing. We can do without guano, but not without seed-corn, or blacksmiths or joiners. I think guano should be a cash payment. Perhaps it might be the best way to pay for land and everything ready money; but you get nothing out of the land for twelve months.

To the Chairman.—The farmers sometimes contract with the blacksmiths in my neighbourhood.

(101.) Mr JAMES M'LEAN.

James M'Lean.

To the Chairman.—I am a writer in Wigtown, and agent there for the City of Glasgow Bank. I am also a factor, and manage land to the extent of nearly £22,000 a year—all in Wigtownshire. I have been in business for about twenty-four years, and for the most of that time have more or less been doing the business of a factor. I am well acquainted with the position of agriculture generally in Wigtownshire. Besides acting as factor for the estates to which I have referred, I have acted as local law-adviser for other large estates, which would make the rental under my charge, in one or other capacity, upwards of £40,000 a year. All sequestrations on these estates would be done by me. I am factor upon the estates of Sir W. Maxwell of Monreith, Sir William Dunbar, and Mr Stewart of Physgill and Glasserton; and also for the estate of Tor House, belonging to sundry proprietors in the neighbourhood of Wigtown. I was local adviser for the late Sir James D. Hay of Park Place, and am so now for his son, Sir John Dalrymple Hay, and for Mr Maitland of Freugh, and other proprietors. I limit myself to landlords' agency. I am not an agent for tenants, except in a few instances. There have not been a great many sequestrations in my neighbourhood, and very few cases in which there was a sale. In some years there might be a dozen sequestrations; in some years not above two. They have been more numerous on some estates than others; but they have not been limited to any one estate. They have applied to farms varying from £100 and under to £300 of rent. The greatest proportion of the farms on the estates I have mentioned are under £300 of rent; but there are a good many above £400, and, in a few cases, above £600. In the Rhins district there are more £50 tenants. The subdivision of the farms is greater there than in the lower district, where I am. In the cases where there have been sequestrations, the landlord has generally recovered his whole rent. In general there have not been many other creditors besides the landlord. In the great majority of cases the landlord is the principal creditor, except where the tenant has been concerned with matters in which he ought not to have been engaged, where he has become a cattle-dealer, or engaged in mercantile transactions. Where he has remained simply a farmer, I would say that the landlord is the principal creditor in the great majority of cases. The tenants expend a good deal of money in artificial manures and feeding-stuffs, for which, in some cases, although not very commonly, they pay ready money; and the practice of paying ready money is extending. I am greatly in favour of the existing law of hypothec, with some modifications. It enables a tenant to tide over a bad time with his landlord. If the landlord knows there is sufficient on the farm to pay his rent he is liberal, and allows his tenant some indulgence. The hypothec, although not put in force, operates like a cautioner for the tenant's ultimate payment of his rent, tending to prevent premature sales of produce. In the great majority of cases of sequestration in which I have acted there has been no sale. We have tided the tenant over; or, if he has given up the farm, there has been a sale by arrangement. In my district the law of hypothec has operated beneficially to the outside creditors. It has enabled many farmers to go on and pay in full; whereas, if they had been stopped at once, they would have only paid a dividend, and been out of their farms altogether. The abolition of the law would operate more injuriously to the middle class of farmers, and eight-tenths of the tenantry of the country are of that description. I take it for granted that no change in the law would affect existing leases; and, if it were abolished, landlords would be more cautious about giving their farms to men with moderate capital. A landlord would probably put out a tenant, though he was a deserving man, if his means were small. It would also make landlords more cautious about giving leases. When a lease is out, it is common to offer the farm to the sitting tenant. There have been very few changes of tenants in my district, and the fact that there have been so few sales in my twenty-four years' experience shows that the tenants in general are prosperous. They pay their rents pretty regularly. I have not heard the subject of the law of hypothec discussed among the agricultural community, and there is no excitement about it among the tenantry in our county. I don't believe a tenant taking a farm thinks of the law of hypothec. He never thinks that he is to become bankrupt, or give up his farm. I don't think it increases competition. I think competition might

James M'Lean.

be as great without the law of hypothec. That depends on the number of persons in quest of land, and they often bid high in inverse proportion to their means.

To Mr Hope.—Two or three years back I returned rentals of estates under my charge without a shilling of arrears. At present there are more arrears than I have had for ten years. The usual entry in Wigtownshire is Martinmas or Whitsunday. If at Martinmas, the payment of rent is at Whitsunday and Martinmas following. If the entry is at Whitsunday, the first half-year's rent is paid at Martinmas, the outgoing tenant having reaped the crop, and all the incoming tenant gets being the grass land and houses; but these farms are generally pasture farms. The arable farms generally have Martinmas entries, and the mixed farms, where a considerable portion is grass, have a Whitsunday entry. If a tenant enters to a large pastoral farm, and gets the houses and grass, he has the summer pasture or hay before paying rent. There are not many postponed rents in Wigtownshire. *Q.* If the law was abolished, would you consider it necessary to make changes in the terms of payment of the rents?—*A.* In the case of new leases I think not, though it would be desirable in parts of the country where there are more postponed rents; but you could hardly expect a tenant to pay sooner than the terms I have mentioned. At one time the great majority of farms had Whitsunday entries; but, in many cases, on reletting, I have made the lease end at Martinmas, generally making arrangements for the crop being taken at a valuation. Hypothec gives additional efficacy to the condition in a lease requiring the straw and turnips to be consumed on the farm. I recommend my constituents to make it a rule that no straw, or natural hay, or turnips shall be sold off the farm, and, while the hypothec exists, the tenant cannot take them away; but if it were open to a creditor to buy a crop of turnips or hay or straw, that regulation might be of no avail. Of course that would be a breach of contract on the part of the tenant selling, but the purchaser would have nothing to do with what was in the lease about it. I question if a *bonâ fide* purchase of that sort could be reached, if there were no hypothec.

To the Chairman.—I am disposed to recommend that produce sold and delivered to a *bonâ fide* purchaser, and paid for, should be protected against the landlord, unless it is under hypothecation. I think it would be objectionable to publish sequestrations. The use of the hypothec is frequently for the protection of the tenant. It is equivalent to a mortgage to the landlord, without expense, whereby the tenant retains his rent as a loan, secured on his property till he can sell to advantage. I have sometimes been requested by a tenant, who had a creditor harassing him, to put the hypothec in force, and that keeps other creditors off. A creditor can easily go to a factor, or to the sheriff-clerk's office, and he will find out whether there is a sequestration, without doing any injury to the tenant. There is a fee-book in which fees of sequestrations are entered, and practically there is no difficulty in getting access to it.

To Mr Hope.—*Q.* Then by using the law of hypothec you prevent a creditor from obtaining his debt from the tenant?—*A.* No; because, if there is anything unfair about it, he ascertains whether there has been a hypothecation, and, if there is more on the land than pays the rent, he carries through a poinding, and he knows the factor will not take the trouble of opposing a just claim against the tenant where there is plenty on the ground.

To the Chairman.—I am decidedly against the publication of sequestrations. When a man is sequestrated, it is well known in the locality. Speaking as a bank-agent I would almost as soon trust a tenant with the law of hypothec as without it. I would not trust a man at all if I thought he would not be able to pay me; but, supposing I had some degree of doubt, I would inquire if there were other creditors, and if there were no other creditors than the landlord, I would rather give a man credit with the hypothec than without it, because I would know that the landlord would not pounce on him for his rent, and would help him over his difficulties.

To Mr Curror.—The abolition of the law might injure farmers of skill, but of small capital, because the landlords might remove them, whereas with the law they might not remove them; but, when an open farm is to be let, the landlord should take the best tenant he can, and in that case I don't believe that the landlord considers whether there is a law of hypothec or not. I would select the man with most skill and capital, or, failing his having both, I would rather have capital on the whole. I think the law of hypothec tends to give greater security to the landed interest. The farms on which I am factor are chiefly agricultural.

James M'Lean.

To Mr Carnegie.—Some tenants have raised themselves from being small crofters and head ploughmen or grieves, and they have taken a croft of £30 or so to begin. I have known them get into a £200 farm. I don't find that the present system of paying rents in Wigtownshire prevents these men from getting on. I think the law of hypothec rather favours them.

To the Chairman.—I don't think the law of hypothec has prevented that class from rising; but I believe that, if postponed rents had been introduced, it would just have made the man's capital go farther; and in bad times the rents are in point of fact postponed. Wherever the hypothec is available, it turns forehand rents into postponed rents, and that is the advantage of it. In good times a man may be able to pay fore-rents, while in bad times he could only pay postponed rents.

To Mr M'Lagan.—If the law were abolished, assuming the current leases to be protected, it would make the landlords more cautious in continuing tenants, though they were of deserving character, if their means were doubtful. It might make a landlord throw a farm open, when he would have continued the tenant in it, if he had had the hypothec. *Q.* Would you not ask collateral security if the law were abolished?—*A.* We would be glad to get it; but in point of fact we could not get it. I think the abolition of the law would tend to shorten leases.

To Mr Carnegie.—*Q.* What is your opinion of the proposal to limit the preferable claim of the landlord to one year's rent?—*A.* I think the current year's rent would be too little. It should be at least the bygone half-year's rent as well as the current year's, so that the landlord might more readily forbear enforcing payment of the last half-year's rent in time of need. That would make a preference for three half-years' rents.

To Mr Hope.—*Q.* And the tenant would have two crops to pay it out of?—*A.* I am supposing that, for the bygone year, it should be made good against crop within three months, just as in the case of stock. I don't see why crop should be perpetually liable to hypothec. The great majority of leases in Wigtownshire are for nineteen years, though there is a tendency to make them shorter; but my opinion is that they should be for nineteen years; because the farms are generally managed on the six-course shift, and nineteen years gives them three rotations. When farms come out of lease they generally bring a higher rent.

To Mr Curror.—I don't know if rents would be reduced much if the leases were shortened. I think they would not at first with landlords who take the highest bidder, but they would with landlords who select their tenants. There are not a great many crofters in Wigtownshire, though on every estate there are a few. Generally they are in a thriving state. They are rather diminishing in number, because capital is now so much required.

To Mr Hope.—There are a good many dairy-farms in our district, and they are paying very well. There are some farmers who let their cows to bowers, and some manage their dairies themselves. The six-course shift is as follows,—first breaking up from lea, then green-crop, then sowing down barley, oats, or wheat, with grass-seeds and pasture the other years, permission being given to reap one crop of rye-grass hay. In the leases that I am concerned with we don't prevent the tenants from selling rye-grass, but we make them cut it in flower. We debar guano, except combined with bones or farm-yard manure.

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——— Personal Loss not caused by.—Gray, 7; Gibson, 9; Binnie, 13; Forman, 14; Davidson, 18; Harvey, 25; Wilson, 35; Glendinning, 44; Harper, 48; Stoddart, 49; Stirling, 52, 54; Paterson, 55; Dawson, 61, 62; Sharp, 62, 63; Crawford, 73; Taylor, 76; Cross, 79; Hobkirk, 87; Marshall, 94–96; Drennan, 113; Cunningham, 116; Willison, 130; Baird, 132; Scott, 141; Taylor, 152; Cunningham, 173; Copland, 182; Mitchell, 190; Davidson, 190; Kemp, 191; Barclay, 192; Gibb, 200; Wood, 213, 214; Murray, 237; M'Inroy, 246; Durie, 251; Garland, 256; Sproat, 276.
——— Personal Inconvenience caused by. See *Instances of Hardship.*
——— enables Landlords to give Indulgence to Tenants; or, Abolition would render Landlords more strict.—Gray, 8; Melvin, 22; Harvey, 28; Glendinning, 45; Paterson, 59; Sharp, 62; Hare, 70; Shaw, 84–86; Stirling, 98–100; Low, 108; Melville, 112; Makgill, 146, 150; Jamieson, 157, 158, 162–164; Kerr, 210, 211; Stewart, 212; Wyllie, 216, 217; Dalziel, 223; Irvine, 232, 233, 235; Buist, 236; Murray, 238; Rutherford, 239, 240; M'Inroy, 244, 246; Swinton, 249; Stuart, 255, 256; Garland, 257; Hunter 266; Sinclair, 281, 283; Gordon, 291, 292; M'Lagan, 294; M'Lean, 298, 300.
——— Miscellaneous Proposals for Alteration.—Gibson, 6; Gray, 7, 8; Gibson, 11; Harvey, 26, 27; Mylne, 28, 29; Brodie, 31; Hope, 33, 34; Wilson, 36; Neilson, 39, 40; Dickson, 40, 41; Glendinning, 46; Harper, 48, 49; Stoddart, 50, 52; Stirling, 54; Paterson, 56, 58, 60; Dawson, 61; Fraser, 72; Crawford, 74; Cross, 78; Hobkirk, 87, 89, 90; Geekie, 90–93; Marshall, 94–96; Stirling, 99; Cooper, 104; Low, 107, 108; Drennan, 115, 116; Baird, 132; Bethune, 133, 135; Goodlet, 136–139; Scott, 141, 142; Lyall, 143, 144; Makgill, 147, 149, 150; Jamieson, 161; Rintoul, 165; Christie, 166; Gordon, 169; Cunningham, 173; Glen, 176, 177; Elliot, 178–180; Copland, 190; Gibb, 200, 201; Kerr, 210; Stewart, 212; Wyllie, 217; Fletcher, 219; Geddes, 220; Dalziel, 224, 230, 232; Irvine, 233, 234; Buist, 236; Murray, 238; Graham, 241; M'Inroy, 246, 247; Mitchell, 250; Durie, 252; Hunter, 265, 267; Scott, 269; Campbell, 276; Sinclair, 282, 283; Kennedy, 285, 287.
——— should be modified as to Landlord's Preference. See *Security.*
——— should be modified so as to give Blacksmiths etc. a Preference. See *Security.*
——— should be modified as to Following. See *Sales.*
——— should be modified as to Sequestrations being published. See *Sequestrations.*
——— or, Abolition of, as affecting Rents. See *Rents.*
——— or, Abolition of, as affecting Competition. See *Competition.*
——— or, Abolition of, as affecting Landlords, Tenants, Creditors. See *Landlords, Tenants, Creditors.*
——— Urban. See *Urban Hypothec.*
Indulgence—Hypothec enables Landlords to give Indulgence. See *Hypothec.*
——— beneficial or prejudicial to Tenant. See *Tenants, benefited or prejudiced.*
Instances of Hardship of Law—Following Grain, etc.—Gibson, 5; Gibson, 10; Binnie, 12; Sadler, 16; Davidson, 18, 20; Melvin, 21; Harvey, 26; Brodie, 30, 31; Hope, 32–34; Neilson, 38; Dods, 42, 44; Glendinning, 46; Harper, 49; Stoddart, 51; Scott, 64; Fraser, 71, 72; Crawford, 73, 76; Taylor, 76; Cross, 77, 79–81; Geekie, 91–93; Cooper, 100–105; Drennan, 115; Steele, 119–123, 125; Gray, 129; Baird, 131; Goodlet, 139, 140; Taylor, 154–155; Alexander, 157; Rintoul, 164, 166; Christie, 166, 167; Gordon, 168, 169; Rutherford, 170–172; Glen, 175; Copland, 182–184; Davidson, 191; Barclay, 193; Gibb, 201; Fletcher, 218, 219; Dalziel, 223, 231; Rutherford, 240; Durie, 253; Hope, 263; Hunter, 264; Campbell, 274; Biggar, 279; Kennedy, 284, 287; Bogie, 297.
Inverness, Evidence relating to County of.—Melville, 108; Bett, 215; Walker, 258; Kennedy, 283, 286.
Irritancy of Lease. See *Lease.*

Kincardine, Evidence relating to County of.—Taylor, 152-156; Alexander, 156; Jamieson, 160; Dalziel, 224; M'Inroy, 243–245, 247; Durie, 251–254; Garland, 256, 257; Walker, 258, 260.
Kinross, Evidence relating to County of.—Gibson, 1; Dalziel, 224; Jamieson, 162.
Kirkcudbright, Evidence relating to County of.—Campbell, 270; Sproat, 276; Biggar, 278–280.

Lanark, Evidence relating to County of.—Gibson, 2; Neilson, 39, 40; Stoddart, 49, 52; Hare, 70; Crawford, 73–76; Taylor, 76; Cross, 77, 79, 80, 83; Melville, 108, 111; Steele, 122; Baird, 131; Scott, 141, 142; Jamieson, 157, 162; Stewart, 211; Dalziel, 227; Graham, 242; Scott, 268, 269; Kennedy, 283.
Landlords benefited by Hypothec; or, prejudiced by Abolition.—Gibson, 2; Binnie, 12; Glendinning, 46; Paterson, 60; Shaw, 84; Hobkirk, 88; Melville, 112; Lyall, 144; Jamieson, 157–159, 162; Rintoul, 165; Glen, 173, 175, 176; Wood, 214; Wyllie, 217; Fletcher, 220; Dalziel, 229, 231; Irvine, 233, 234; Rutherford, 239; Graham, 243; M'Inroy, 244; Hunter, 265; Gordon, 288, 291, 292; Christie, 295.
——— prejudiced by Hypothec; or, benefited by Abolition.—Gray, 7; Gibson, 9, 10; Binnie, 11; Sadler, 16; Davidson, 18; Melvin, 20, 22; Harvey, 27; Hope, 34; Wilson, 35; Scott, 68; Cross, 77, 82; Cunningham, 116, 118; Bethune, 132; Elliot, 177, 178; Campbell, 270, 273, 275.
——— and Factors careful in selecting Tenants.—Neilson, 39; Dickson, 42; Glendinning, 45, 47; Stirling, 54, 55; Paterson, 59; Sharp, 64; Scott, 67, 68; Hare, 69, 70; Shaw, 85; Hobkirk, 88, 89; Geekie, 93; Stirling, 98; Low, 106; Melville, 109, 110, 112; Jamieson, 159; Rutherford, 172; Cunningham, 173; Glen, 174; Kerr, 209; Wood, 213, 214; Bett, 216; Dalziel, 225, 230, 231; Buist, 236, 237; Murray, 238; Rutherford, 239; Graham, 241; M'Inroy, 245, 246; Mitchell, 250; Stuart, 255; Garland, 257, 258; Walker, 259; Hunter, 266, 267; Sproat, 277, 278; Biggar, 279; Sinclair, 282; Gordon, 289, 292; Christie, 295; Bogie, 296.
——— and Factors rendered careless by Hypothec.—Gray, 7; Binnie, 13; Forman, 14; Henderson, 24; Harvey, 25; Hope, 34; Wilson, 35–37; Neilson, 40; Harper, 48, 49; Scott, 67;

Fraser, 72; Cross, 82, 84; Geekie, 92; Marshall, 95; Cooper, 102, 103; Cunningham, 116; Steele, 121, 124; M'Creath, 127; Gray, 128; Willison, 131; Goodlet, 136, 139, 140; Lyall, 143; Taylor, 152–154; Christie, 167; Gordon, 168, 170; Rutherford, 170; Elliot, 177, 179, 180; Copland, 186; Mitchell, 190; Kemp, 192; Fletcher, 218, 219; Geddes, 221; Durie, 251; Campbell, 274; Biggar, 280; Kennedy, 284, 285.

Landlords, Evidence of. See *Proprietors.*

——— enabled to give Indulgence by Hypothec. See *Hypothec.*

——— Abolition would render more strict. See *Hypothec.*

——— Security to. See *Security.*

Land Valuators, Evidence of.—Henderson, 24; Dickson, 40; Glendinning, 44; Paterson, 59; Elliot, 177; Martin, 199; Geddes, 220; Buist, 237; Walker, 258; Warrack, 262.

Leases, existing, Rights under, should be reserved if Law abolished.—Gibson, 3; Gibson, 9; Binnie, 12; Forman, 14; Sadler, 17; Davidson, 19; Melvin, 22; Harvey, 28; Mylne, 28; Wilson, 36; Dickson, 41; Dods, 42; Harper, 49; Paterson, 57; Cross, 78; Shaw, 86; Geekie, 93; Marshall, 96; Cooper, 103; Low, 106; Drennan, 113; Willison, 131; Bethune, 133, 134; Goodlet, 137; Taylor, 156; Rintoul, 166; Christie, 167; Copland, 188; Barclay, 193; Stewart, 213; Geddes, 222; Dalziel, 227; Durie, 252; Scott, 268, 269; M'Lean, 298.

——— existing, Rights under, should not be reserved if Law abolished.—Gray, 9; Henderson, 24; Scott, 65, 67; Crawford, 75; Cunningham, 117, 118; Steele, 120; Gray, 130; Makgill, 150; Alexander, 157; Rutherford, 171; Elliot, 178; Kemp, 191; Campbell, 195.

——— Irritancy of, and Introduction of stringent Clauses.—Gray, 8; Binnie, 13; Melvin, 22; Mylne, 29; Hope, 33, 34; Wilson, 36; Neilson, 40; Dickson, 41; Dods, 43, 44; Harper, 49; Scott, 66, 67; Hare, 70; Cross, 83; Geekie, 93; Cooper, 105; Low, 108; Melville, 111; M'Creath, 127, 128; Bethune, 133, 135; Goodlet, 138; Lyall, 145; Taylor, 154; Jamieson, 161; Rintoul, 165, 166; Rutherford, 171, 172; Glen, 176; Elliot, 178, 179; Copland, 185, 187, 188; Campbell, 195; M'Inroy, 246; Mitchell, 250; Stuart, 256; Hunter, 266.

Legal Profession, Sheriff-Clerks, etc., Evidence of.—Gibson, 1; Neilson, 37; Shaw, 84; Melville, 108; Gray, 128; Jamieson, 157; Gordon, 167; Glen, 173; Copland, 181; Kerr, 201; Dalziel, 222; Irvine, 232; Rutherford, 239; Mitchell, 249; Hunter, 264; M'Lean, 298.

Linlithgow, Evidence relating to County of.—Dawson, 60, 61; Hare, 68–70; Steele, 122; Goodlet, 135; Jamieson, 157, 158, 161, 164; Rintoul, 164; Glen, 173, 175–177.

Maltsters, Evidence of. See *Merchants.*

Manure etc. Merchants, Evidence of. See *Merchants.*

Merchants, Evidence of.—Brodie, 30; Hope, 31, 262; Dods, 42; Dawson, 60; Fraser, 71; Crawford, 73; Taylor, 76; Cross, 77; Hobkirk, 87; Cooper, 100; Steele, 118; M'Creath, 127; Baird, 131; Christie, 166; Rutherford, 170; Copland, 181; Mitchell, 190; Davidson, 190; Kemp, 191; Barclay, 192; Campbell, 194; Wood, 213; Walker, 259; Biggar, 278.

——— Effects of Law upon. See *Creditors.*

Morayshire, Evidence relating to County of.—Hope, 32; Melville, 108; Geddes, 220, 222; Walker, 258.

Nairn, Evidence relating to County of.—Fraser, 71.

Peebles, Evidence relating to County of.—Gibson, 1; Hope, 32; Stoddart, 49; Paterson, 55.

Perth, Evidence relating to County of.—Dickson, 40; Sadler, 16; Stirling, 52, 53; Sharp, 62, 63; Geekie, 90; Stirling, 97; Cooper, 101–103, 105; Goodlet, 140; Jamieson, 157, 158; Elliot, 177, 179, 180; Kerr, 201; Wyllie, 216, 217; Dalziel, 224, 225; M'Inroy, 247; Mitchell, 249; M'Lagan, 293.

Preferential Security See *Security.*

Prices. See *Rents and Prices.*

Private Sales. See *Sales.*

Proprietors or Landlords, Evidence of.—Hare, 68; Cross, 82; Geekie, 90; Stirling, 97; Low, 106; Bethune, 133; Makgill, 145; Rutherford, 170; Irvine, 232; Graham, 240; M'Inroy, 243; Hunter, 264; Biggar, 278; Sinclair, 281; Kennedy, 283; Gordon, 287; Christie, 295; Bogie, 296.

Renfrew, Evidence relating to County of.—Crawford, 73; Taylor, 76; Cross, 80, 82; Melville, 108; Steele, 122; Goodlet, 135.

Rents or Prices raised unduly by Hypothec.—Gray, 7; Davidson, 18, 19; Harvey, 25; Harper, 48; Marshall, 96; Cooper, 104, 105; Cunningham, 118; Steele, 127; Gray, 130; Goodlet, 136; Lyall, 143; Taylor, 154; Gordon, 170; Kemp, 192; Campbell, 194; Geddes, 221; Durie, 253, 254; Kennedy, 285.

——— raised by other Causes than Hypothec.—Paterson, 57; Cross, 82; Makgill, 150; Christie, 167; Gibb, 201; Kerr, 211; Wood, 241; Irvine, 233; Murray, 237; Rutherford, 239; M'Inroy, 244; Swinton, 249; Garland, 257; Warrack, 261; Gordon, 288.

——— would be reduced by Fore-rents or Abolition of Law.—Gibson, 3, 4; Binnie, 11–13; Forman, 15; Sadler, 16, 17; Davidson, 18; Melvin, 21, 23; Henderson, 24; Harvey, 26; Hope, 32; Scott, 68; Hare, 69; Cross, 82; Geekie, 93; Stirling, 97; Cooper, 105, 106; Low, 106; Melville, 111; Drennan, 113; Steele, 127; Scott, 141; Jamieson, 159, 162; Christie, 167; Glen, 177; Dalziel, 225, 229; Irvine, 234; Buist, 236, 237; Graham, 242; Swinton, 248; Durie, 253; Hope, 263; Campbell, 275; Christie, 296; Bogie, 297.

——— would not be permanently reduced by Fore-rents or Abolition of Law.—Harvey, 26; Hope, 34; Dickson, 41, 42; Glendinning, 45; Harper, 48; Stoddart, 52; Stirling, 53; Paterson, 56, 59; Scott, 65; Cooper, 104; Cunningham, 117; Gray, 130; Elliot, 180, 181; Murray, 238; Rutherford, 239; Garland, 256–258; Campbell, 274.

Rights under existing Leases. See *Leases.*

Ross, Evidence relating to County of.—Jamieson, 157, 158, 159; Walker, 258; Kennedy, 283.

Roxburgh, Evidence relating to County of.—Gibson, 1; Scott, 64–68; Hobkirk, 87, 88, 90; Low, 106, 107; Melville, 108; Jamieson, 158, 162; Rutherford, 170–172; Elliot, 177; Fletcher, 218; Dalziel, 224, 225; Rutherford, 239, 240; Scott, 269; Bogie, 297.

Sales, System of.—Gibson, 6, 7; Binnie, 12; Sadler, 17; Davidson, 20; Brodie, 31; Hope, 31, 32; Neilson, 37, 38; Dickson, 40; Stirling, 54; Paterson, 60; Scott, 66; Crawford, 73–75; Marshall, 94, 95; Steele, 122, 125; Scott, 141; Christie, 167; Rutherford, 171; Copland, 181; M'Inroy, 246.

——— Bonâ Fide, should be protected.—Sadler,

16; Mylne, 28; Wilson, 36; Neilson, 39; Dickson, 40; Glendinning, 44, 46; Stirling, 54; Paterson, 56, 60; Dawson, 61; Sharp, 63; Scott, 66; Crawford, 73, 74; Cross, 79; Geekie, 91; Marshall, 96; Stirling, 98; Cooper, 101, 102; Low, 108; Drennan, 113; Steele, 123; M'Creath, 127; Bethune, 133; Goodlet, 136, 138; Lyall, 145; Makgill, 149; Taylor, 156; Jamieson, 164; Glen, 174; Copland, 190; Davidson, 190; Kemp, 192; Gibb, 200; Kerr, 210; Stewart, 212; Wood, 214; Bett, 215; Geddes, 220; Dalziel, 224; Murray, 238; Swinton, 247; Mitchell, 250; Garland, 257; Walker, 260; Warrack, 262; Hunter, 265; Scott, 269; Sinclair, 282; Kennedy, 286; Gordon, 291, 292; M'Lagan, 294; Christie, 295; Bogie, 296; M'Lean, 299.

Sales, Sample, should be equivalent to Bulk.—Wilson, 36; Dickson, 40; Glendinning, 44; Dawson, 61; Crawford, 73; Shaw, 85; Geekie, 91; Marshall, 96; Cooper, 101; Low, 108; Cunningham, 118; Baird, 132; Scott, 141; Lyall, 143; Makgill, 150; Jamieson, 161; Christie, 167; Wyllie, 217; Buist, 236; Murray, 238; Rutherford, 239; Walker, 260; Warrack, 262; Bogie, 296.

——— Miscellaneous Proposals as to. See *Hypothec, Miscellaneous Proposals.*

Security to Landlords, a good Tenant, his stocking, draining, etc.—Gray, 7, 8; Dods, 43; Scott, 65, 66; Cross, 78, 80; Cooper, 105; Cunningham, 118; Steele, 124; Gray, 129; Baird, 132; Bethune, 135; Goodlet, 136; Lyall, 145; Taylor, 154; Rintoul, 165; Rutherford, 172; Copland, 187–189; Barclay, 192; Campbell, 275; M'Lagan, 294; Bogie, 297.

——— to Landlords, Fore-rents sufficient.—Gibson, 3; Binnie, 13; Forman, 14; Henderson, 24; Harvey, 27; Neilson, 39; Dods, 43, 44; Paterson, 56; Scott, 67; Stirling, 98, 99; Low, 106; Drennan, 115; Elliot, 179; Warrack, 262.

——— Miscellaneous Proposals. See *Hypothec, Miscellaneous Proposals.*

———Landlords should have no preferential.—Gray, 7; Melvin, 22; Dods, 42, 43; Scott, 64–66; Cross, 78, 80, 81, 83, 84; Cooper, 101, 105; Steele, 120, 121; Taylor, 153; Elliot, 178; Copland, 181, 184, 187; Davidson, 191; Kemp, 192; Campbell, 195; Campbell, 275; Biggar, 280.—See also *Hypothec should be entirely abolished.*

——— Blacksmiths, Joiners etc. should have preferential.—Wilson, 37; Buist, 236; Murray, 238; Graham, 241; Scott, 269; Bogie, 297.

Seed Merchants, Evidence of. See *Merchants.*

Selkirk, Evidence relating to County of.—Gibson, 1; Fletcher, 218.

Sequestrations should be published or registered.—Melvin, 21, 22; Mylne, 29; Hope, 34; Neilson, 40; Dods, 42, 44; Glendinning, 47; Paterson, 59; Dawson, 61; Scott, 65; Cross, 84; Hobkirk, 90; Geekie, 91, 93; Marshall, 95, 96; Stirling, 98; Cooper, 101; Low, 107; Steele, 123, 126; Gray, 130; Willison, 131; Baird, 132; Bethune, 133; Goodlet, 137, 138; Lyall, 143, 144; Makgill, 150; Alexander, 157; Jamieson, 161; Christie, 166; Gordon, 170; Rutherford, 171; Glen, 174; Elliot, 179; Copland, 190; Kemp, 192; Gibb, 200; Stewart, 212; Bett, 216; Wyllie, 217; Geddes, 220; Irvine, 233; Murray, 238; Graham, 241; M'Inroy, 245; Mitchell, 250; Durie, 254; Garland, 257; Walker, 259; Warrack, 262; Scott, 269; Campbell, 274; Sinclair, 282; Kennedy, 286; M'Lagan, 294.

——— should not be published.—Shaw, 85; Melville, 111; Kerr, 210; Dalziel, 228; Rutherford, 239, 240; Swinton, 247; Hunter, 268; Bogie, 297; M'Lean, 299.

——— or Failures frequent.—Harper, 48; Scott, 64; Cross, 79; Shaw, 85; Marshall, 95; Cooper, 100–102; Drennan, 113; Steele, 125, 127; Taylor, 152; Elliot, 179; Copland, 186; Fletcher, 219 Durie, 251; Stuart, 255; Campbell, 275; Kennedy, 284, 287.

Sequestrations or Failures unfrequent.—Gibson, 2, 5; Harvey, 26; Neilson, 38, 39; Glendinning, 47; Stirling, 54, 55; Sharp, 62, 63; Hare, 69; Stirling, 97, 99; Low, 107; Melville, 110, 111; Scott, 141; Lyall, 145; Jamieson, 160–162; Rutherford, 171, 172; Cunningham, 173; Glen, 174, 175; Gibb, 201; Stewart, 212, 213; Wood, 213; Bett, 215; Wyllie, 216; Fletcher, 219; Geddes, 221; Dalziel, 224, 225, 229; Irvine, 233; Buist, 236; Murray, 238; Rutherford, 240; Graham, 240, 241; M'Inroy, 245; Swinton, 248; Mitchell, 249; Garland, 257; Walker, 259; Warrack, 261, 262; Hunter, 267, 268; Scott, 269; Sproat, 276; Biggar, 280; Sinclair, 281, 283; Gordon, 289, 291; M'Lagan, 293, 294; Christie, 295; Bogie, 296; M'Lean, 298.

——— Proposals of half-yearly; Limitation of Time to exercise Right, etc. See *Hypothec, Miscellaneous Proposals.*

Stirling, Evidence relating to County of.—Hope, 32; Stirling, 54; Sharp, 63; Stirling, 97; Steele, 122; Wyllie, 217; M'Lagan, 293.

Sutherland, Evidence relating to County of.—Kennedy, 283.

Tenant-Farmers, Evidence of.—Gray, 7; Gibson, 9; Binnie, 11; Forman, 13; Sadler, 16; Davidson, 17; Melvin, 20; Henderson, 24; Harvey, 25; Mylne, 28; Brodie, 29; Wilson, 35; Dickson, 40; Glendinning, 44; Harper, 48; Stoddart, 49; Stirling, 52; Paterson, 55; Sharp, 62; Scott, 64; Fraser, 71; Cross, 82; Geekie, 90; Cooper, 100; Drennan, 113; Cunningham, 116; Willison, 130; Goodlet, 135; Scott, 141; Lyall, 142; Taylor, 152; Alexander, 156; Rintoul, 164; Christie, 166; Rutherford, 170; Cunningham, 173; Elliot, 177; Mitchell, 190; Davidson, 191; Barclay, 192; Campbell, 194; Higgins, 196; Martin, 199; Gibb, 200; Wood, 213; Fletcher, 218; Geddes, 220; Murray, 237; Durie, 251; Garland, 256; Walker, 258; Warrack, 261; Scott, 268; Sproat, 276; Biggar, 278; Kennedy, 283; M'Lagan, 293; Christie, 295; Bogie, 296.

Tenants benefited by Law; or, prejudiced by Fore-rents or Abolition of Law.—Gibson, 2, 4, 5; Binnie, 13; Sadler, 17; Henderson, 24; Glendinning, 44–47; Stirling, 52–54; Paterson, 55, 56, 59, 60; Sharp, 62; Scott, 68; Hare, 69, 71; Shaw, 84, 86; Hobkirk, 88; Low, 106, 108; Melville, 112; Drennan, 114; Scott, 141, 142; Lyall, 145; Makgill, 146; Jamieson, 157–159, 162; Glen, 173, 176; Gibb, 200, 201; Kerr, 209, 210; Stewart, 212; Bett, 215; Wyllie, 216, 217; Dalziel, 223–225, 228, 230–232; Irvine, 232–234; Buist, 235, 236; Rutherford, 239, 240; Graham, 241, 243; M'Inroy, 244–246; Swinton, 249; Mitchell, 249, 250; Stuart, 255, 256; Garland, 257; Walker, 259; Warrack, 261, 262; Hunter, 265, 266; Sproat, 278; Gordon, 288–292; M'Lagan, 293; Christie, 295; Bogie, 296, 297; M'Lean, 298, 300.

——— prejudiced by Law; or, benefited by Fore-rents or Abolition of Law.—Gray, 7, 8; Gibson, 9, 10; Binnie, 12; Sadler, 16, 17; Davidson, 18, 19; Melvin, 20–22; Harvey, 26; Hope, 34; Wilson, 35; Dickson, 40; Harper, 48; Scott, 68; Crawford, 75; Taylor, 76; Cross, 79, 82; Cooper, 103; Drennan, 114, 115; Cunningham, 116–118; Steele, 120, 123; M'Creath, 127; Willison, 130, 131; Baird, 132; Bethune, 133–135; Goodlet, 136; Lyall, 143; Taylor, 153, 156; Rintoul, 165, 166; Christie, 166; Elliot, 177; Cop-

land, 187; Fletcher, 220; Campbell, 270, 275; Kennedy, 284–286.

TENANTS GET INDULGENCE, ETC. See *Hypothec.*

——— CONSEQUENCES OF FORE-RENTS UPON. See *Fore-rents.*

——— COULD OR COULD NOT PAY FORE-RENTS. See *Fore-rents.*

——— HYPOTHEC PREVENTS TENANTS GETTING CREDIT FROM FRIENDS, MERCHANTS, OR BANKERS; or, ABOLITION WOULD FACILITATE THIS.—Gray, 8; Gibson, 9, 10; Binnie, 12, 13; Sadler, 17; Davidson, 19; Melvin, 21, 23; Brodie, 30; Cross, 77, 82, 83; Geekie, 91; Cooper, 101–103, 106; Drennan, 114; Cunningham, 116–118; Steele, 119–121, 124, 126; Gray, 128–130; Willison, 131; Bethune, 133, 134; Taylor, 152; Christie, 167; Gordon, 168–170; Elliot, 179; Copland, 184, 189; Barclay, 192–194; Campbell, 194, 195; Fletcher, 218; Geddes, 221; Durie, 253; Campbell, 275; Kennedy, 285, 286.

——— NOT PREVENTED GETTING CREDIT BY HYPOTHEC; or, ABOLITION WOULD NOT FACILITATE THIS.—Gibson, 6; Forman, 15; Shaw, 86; Stirling, 98, 100; Melville, 109, 112; Makgill, 146; Glen, 174; Gibb, 201; Kerr, 210; Wood, 213; Irvine, 233; Rutherford, 239; Graham, 241; M'Inroy, 245; Mitchell, 250; Walker, 259; Warrack, 262; Hunter, 267; Gordon, 290; Bogie, 297; M'Lean, 299.

——— WITH SMALL CAPITAL, OR CROFTERS, THEIR CIRCUMSTANCES PROSPEROUS, AND THEIR EXCLUSION PREJUDICIAL TO AGRICULTURE.—Gibson, 3, 4, 5; Forman, 15; Wilson, 36; Stoddart, 51; Stirling, 52–54; Paterson, 59; Hare, 69; Cross, 78; Shaw, 84, 85; Stirling, 97, 99; Melville, 111; Cunningham, 117; Bethune, 134; Goodlet, 136; Scott, 141; Lyall, 143–145; Makgill, 147; Jamieson, 160; Glen, 174; Kerr, 209; Stewart, 212; Wood, 213, 214; Bett, 215, 216; Wyllie, 217; Dalziel, 224, 225; Irvine, 232–235; Graham, 242; Mitchell, 250; Stuart, 254, 256; Garland, 257; Walker, 259–261; Warrack, 261, 262; Sproat, 277; Sinclair, 281, 282; Gordon, 288–292; M'Lagan, 294; M'Lean, 298, 300.

——— WITH SMALL CAPITAL, OR CROFTERS, THEIR CIRCUMSTANCES NOT PROSPEROUS, AND THEIR EXCLUSION DESIRABLE.—Gibson, 11; Dickson, 41; Dods, 43; Glendinning, 46; Stoddart, 52; Hare, 71; Shaw, 86; Geekie, 93; Drennan, 114, 115; Willison, 131; Goodlet, 139; Mitchell, 190; Wyllie, 217; Geddes, 221; Scott, 269; Biggar, 279; Kennedy, 286.

——— POSITION OF, EASILY ASCERTAINED.—Melvin, 23, 24; Neilson, 39; Stirling, 53; Sharp, 63; Scott, 65; Hare, 70; Shaw, 85, 86; Stirling, 98, 99; Melville, 111; Glen, 174; Dalziel, 228; Rutherford, 239, 240; Graham, 241; Swinton, 247; Garland, 257; Walker, 260; Hunter, 267, 268; Sinclair, 282; Gordon, 290; Christie, 295; Bogie, 297; M'Lean, 299.

——— POSITION OF, NOT EASILY ASCERTAINED.—Forman, 14; Hope, 32, 34; Dods, 43; Scott, 66, 67; Cross, 79, 84; Cooper, 101; Low, 106, 107; Steele, 126; Bethune, 135; Copland, 185; Campbell, 195; Geddes, 221; Graham, 243; M'Inroy, 245; Durie, 251; Stuart, 256.

TENANTS, THEIR STOCKING, DRAINING, ETC., SECURITY TO LANDLORDS. See *Security.*

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